



2002 Legislative Implementation Plan

June 2002
Publication No. 02-01-020

2002 Legislative Implementation Plan



Washington State Department of Ecology
Office of Governmental Relations
P.O. Box 47600
Olympia, WA 98504-7600

For additional information, if you have special accommodation needs, or require this document in an alternative format, please contact Vickie Van Ness at 360/407-7008 or 360/407-6606 (TDD).

The Department of Ecology is an equal opportunity agency and does not discriminate on the basis of race, creed, color, disability, age, religion, national origin, sex, marital status, Vietnam Era veteran's status or sexual orientation.

June 2002
Publication No. 02-01-020

TABLE OF CONTENTS

Note: Each bill listed contains the following three documents:

1. The Department of Ecology's **Implementation Plan** which includes Program Impacts, Resource Impacts, Work Plan, and Contact Person
2. The **Final Bill Report** – prepared by the Legislative staff, which includes Sponsors, Background, Bill Summary, and Effective Date
3. The Washington State **Legislative Roll Calls**, which includes vote count

SUBSTITUTE HOUSE BILL 1166

Allowing state agencies to sponsor salmon recovery projects3

ENGROSSED SUBSTITUTE HOUSE BILL 1411

Providing public notice of releases of hazardous substances9

ENGROSSED SUBSTITUTE HOUSE BILL 2305

Clarifying the application of shoreline master program guidelines and master programs to agricultural activities on agricultural lands17

SUBSTITUTE HOUSE BILL 2308

Encouraging recycling and waste reduction25

SUBSTITUTE HOUSE BILL 2446

Setting time limits for review of water and sewer general comprehensive plans33

HOUSE BILL 2526

Providing exemptions from SEPA for reductions of city limits and disincorporations39

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2671

Creating the permit assistance center in the office of the governor43

SECOND SUBSTITUTE HOUSE BILL 2867

Mitigating the effects of the aquatic pesticide national pollutant discharge elimination system permit required as the result of a recent court decision53

SUBSTITUTE HOUSE BILL 2874

*Authorizing the department of ecology to enter into agreements to
allocate columbia basin project waters61*

ENGROSSED HOUSE BILL 2993

Modifying water provisions69

SUBSTITUTE SENATE BILL 5841

*Establishing a new schedule for review of comprehensive plans and
development regulations adopted under the growth management act79*

ENGROSSED SUBSTITUTE SENATE BILL 6060

Updating references for purposes of the hazardous substances tax87

SUBSTITUTE SENATE BILL 6329

*Exempting certain hybrid vehicles from emission control inspection
requirements93*

SUBSTITUTE SENATE BILL 6553

Enhancing regulatory capabilities to prevent invasive aquatic species99

SENATE BILL 6609

*Modifying the manner in which the department of ecology conducts
studies105*

SENATE BILL 6624

Modifying well construction provisions109

ENGROSSED SENATE BILL 6726

Protecting dairy farmers from unwarranted complaints115

SUBSTITUTE HOUSE BILL 1166

Allowing state agencies to sponsor salmon recovery projects

PROGRAM / AGENCY IMPACTS

This bill authorizes state agencies, including Ecology, to act as a project sponsor for purposes of obtaining salmon habitat project funding from the Salmon Recovery Funding Board (SRFB). The project must be included on the habitat project list submitted by the lead entity for the area. The state agency must have a local partner for the project that would otherwise qualify as a project sponsor.

RESOURCE IMPACTS

If Ecology applies for and is awarded Salmon Recovery Board funding, additional resources would then be available to support Ecology's mission.

WORK PLAN

No work plan is necessary.

Contact person: Dave Peeler – Water Quality Program
Phone: (360) 407-6489; E-mail: dpee461@ecy.wa.gov

FINAL BILL REPORT

SHB 1166

C 210 L 02

Synopsis as Enacted

Brief Description: Allowing state agencies to sponsor salmon recovery projects.

Sponsors: By House Committee on Natural Resources (originally sponsored by Representatives Rockefeller, Buck, Doumit, Pennington and Edwards; by request of Salmon Recovery Funding Board).

House Committee on Natural Resources
Senate Committee on Natural Resources, Parks & Shorelines

Background:

The Salmon Recovery Funding Board provides funding for habitat projects in accordance with a process established by the Legislature. To obtain funding from the board, the counties, cities, and tribal governments must jointly designate a lead entity for the area from which a habitat project list will be developed. The lead entity is responsible for: (1) creating a committee to compile a list of habitat projects; (2) ranking the projects; (3) defining the sequence for project implementation; and (4) submitting the results of this effort to the lead entity as the habitat project list. The lead entity submits the habitat project list to the technical review team associated with the board so that the projects can be analyzed and ranked.

When developing the habitat project list, the committee must utilize a critical pathways methodology. As part of the critical pathways methodology, local habitat projects must be identified that sponsors are willing to undertake. Each project must have a written agreement from the landowner on which the project is to be implemented. Project sponsors are responsible, in consultation with the landowner and the technical advisory group, for identifying how the projects will be monitored and evaluated. The board is directed to give a preference to projects that will be implemented by a project sponsor with a successful record of project implementation.

A project sponsor may be one of the following: (1) county; (2) city; (3) special district tribal government; (4) a combination of such governments through an interlocal agreement; (5) nonprofit organization; or (6) one or more private citizens.

Summary:

State agencies and regional fisheries enhancement groups are authorized to act as a project sponsor for purposes of obtaining salmon habitat project funding from the Salmon Recovery Funding Board. A state agency sponsored project may be funded only if it is included on the habitat project list submitted by the lead entity for the area. The state agency must also have a local partner for the project that would otherwise qualify as a project sponsor.

Votes on Final Passage:

House	96	0	
Senate	47	0	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

Roll Calls on a Bill: 1166 (2001-02)

Brief
Description: Allowing state agencies to sponsor salmon recovery projects.

2002 Regular Session

Chamber: HOUSE
Bill No.: SHB 1166
Description: FINAL
PASSAGE
Item No.: 2
Transcript No.: 10
Date: 01-23-2002

Yeas: 96 Nays: 00 Absent: 00 Excused:
02

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballard, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Lysen, Mastin, McDermott, McIntire, McMorris, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven, Veloria, Wood, Woods, and Mr. Speaker

Excused: Representatives Mielke, Pflug

2002 Regular Session

Chamber: SENATE
Bill No.: SHB 1166
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE
SENATE
Item No.: 9
Transcript No.: 51
Date: 03-05-2002

Yeas: 47 Nays: 00 Absent: 01 Excused:
01

Voting Senators Benton, Brown, Carlson, Costa, Eide, Fairley, Finkbeiner,
yea: Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter,
Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-
Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette,
Poulsen, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan,
Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Thibaudeau,
West, Winsley, Zarelli

Absent: Senator Deccio

Excused: Senator Swecker

2002 Regular Session

Chamber: HOUSE
Bill No.: SHB 1166
Description: FINAL PASSAGE AS AMENDED BY THE
SENATE
Item No.: 1
Transcript No.: 55
Date: 03-09-2002

Yeas: 94 Nays: 00 Absent: 00 Excused:
04

Voting Representatives Ahern, Alexander, Anderson, Ballard, Ballasiotes,
yea: Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell,
Casada, Chandler, Chase, Clements, Cody, Conway, Cooper, Cox,
Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee,
Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky,
Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett,
Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Lysen, Mastin,
McDermott, McIntire, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray,
Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Reardon, Roach,
Rockefeller, Romero, Ruderman, Santos, Schmidt, Schoesler, Schual-
Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott,
Tokuda, Upthegrove, Van Luven, Voloria, Wood, Woods, and Mr.
Speaker

Excused: Representatives Armstrong, McMorris, Mielke, Schindler

ENGROSSED SUBSTITUTE HOUSE BILL 1411

Providing public notice of releases of hazardous substances

PROGRAM / AGENCY IMPACTS

This bill requires facilities that are transitioning from federal to state oversight with regard to cleanup (Corrective Action under the federal Resource Conservation and Recovery Act -RCRA) to issue a notice to the Department of Ecology within 90 days of the release of a hazardous substance. The notice also describes the release and the remedial action being taken and must be posted in a visible, publicly accessible location on the facility. The notice must remain in place until all remedial action except conformational monitoring are complete.

The bill requires the Department of Ecology to notify the facility's community of the release:

- each residence and landowner within 300 feet of the facility or the area where the release occurred;
- each business whose property is within 300 feet of the boundary of the property where the release occurred;
- neighborhood associations and community organizations representing any area within one mile of the facility;
- the city, county and local health district with jurisdiction (over) the areas described above; and
- the local department of health.

Ecology is given the authority to issue a penalty to the facility for not complying.

RESOURCE IMPACTS

Ecology must mail the notice to the addressees in the designated area. The cost of the mailing is to be reimbursed by the company creating the release.

Ecology must conduct research to find the list of addressees who will be notified.

Ecology must prepare the mailing to the addressees.

WORK PLAN

At this time, between five and ten facilities statewide fall into the potential category listed in the bill. As a proactive measure, Ecology will notify these facilities that these new requirements may now affect them and to make sure they know who to call and under what circumstances. This should help clarify applicability of the bill.

If a release occurs at an eligible facility, Ecology will be required to perform the duties of notification. Lists may be obtainable from address brokers, or Ecology staff may be required to research the addresses, which may require several days of research.

The projected timeline to accomplish requirements of the bill is contingent on the potentiality of a release from a transitioning facility.

No hiring of new personnel is required.

Sections 2, 3, and 4 of this bill go into effect on January 1, 2003.

Contact person - Greg Sorlie, Program Manager, Hazardous Waste & Toxics Reduction Program

Phone: (360) 407-6702; E-mail: gsor461@ecy.wa.gov

FINAL BILL REPORT

ESHB 1411

C 288 L 02

Synopsis as Enacted

Brief Description: Providing public notice of releases of hazardous substances.

Sponsors: By House Committee on Agriculture & Ecology (originally sponsored by Representatives Veloria, Pennington, Cody, Campbell, Romero, Kenney, Keiser, Schual-Berke, Santos, Dunn, Linville, Boldt, Tokuda, Kagi, Cooper, McIntire and Rockefeller).

House Committee on Agriculture & Ecology
Senate Committee on Environment, Energy & Water

Background:

The owners and operators of a facility, or a site where hazardous substances are located, are responsible for reporting spills or other releases of hazardous substances to federal and state authorities. The time limits set for reporting vary depending on the type of facility and the type of release.

In Washington, there are five acts that require the reporting of a release. They are the Oil and Hazardous Substance Spill Prevention and Response Act, Hazardous Waste Management Act, Water Pollution Control Act, Underground Storage Tank Act, and the Model Toxics Control Act (MTCA). These acts require reporting either immediately, within 24 hours, or within 90 days, depending on the circumstances of the release.

Owners and operators of a facility must report immediately to the Department of Ecology (DOE) any releases into the state's waters, wells, or drinking water supplies. Immediate notification is also required for new discharges of hazardous substances into the environment, and for spills or overfills of regulated substances from underground storage tanks (UST) that come in contact with soil, groundwater, or surface water in an amount which is more than de minimis.

An owner or operator of a facility must report a release within 24 hours if a UST leak is discovered. Notification within 24 hours is also required if a UST spills or is overfilled and the hazardous substance does not come in contact with soils or water.

The MTCA requires an owner or operator to report to the DOE a known release of a substance that may be a threat to human health within 90 days of discovery. This requirement includes the reporting of any newly discovered historic releases that occurred as a result of past business practices.

There are currently no federal or state regulations requiring direct notice of a release to landowners adjacent to or in close proximity to a facility.

Summary:

Any owner or operator of a facility that is transitioning from federal oversight to oversight by the state, who has information concerning the release of a hazardous substance at the facility, is required to issue a notice to the Department of Ecology. This notice must be issued within 90 days and it must describe the remedial actions that are being taken or that are planned.

The notice must be posted in a visible and publicly assessable location in the facility until remedial actions are complete. The department must mail notice to: (1) each residence and landowner within 300 feet of the facility or the area where the release occurred; (2) each business whose property is within 300 feet from the facility; (3) each residence landowner and business within the area where the hazardous substance came to be located as a result of the release; (4) any neighborhood associations or community organizations recognized by the local city that represent an area within one mile of the facility; (5) the appropriate city, county, and local health district; and (6) the Department of Health.

The notice produced by the facility must include the common name and chemical abstract service registry number of the substance released, the date the release was discovered, the cause and date of the release, and the potential health and environmental effects of the release. The notice must also be translated if a significant segment of the effected community speaks a language other than English.

Certain releases are exempt from public notification. These include: (1) the application of pesticides in accordance with the label requirements; (2) the lawful and non-negligent use of a household product for domestic purposes; (3) the discharge of a hazardous substance in compliance with existing environmental laws and permits; (4) de minimus ground releases; (5) any releases originating from a residence, including discharge from a heating oil tank; (6) any spill on a public road or onto surface waters of the state that have been reported to the U.S. Coast Guard or the state Division of Emergency Management; (7) any release to the air; (8) releases that are part of a remedial action under the Model Toxics Control Act; and (9) releases on agriculture land.

Costs incurred by the department for issuing the notice are to be reimbursed by the facility where the release occurred. The Attorney General may seek a civil penalty up to \$5,000 per day for violations of the notice requirement.

Votes on Final Passage:

House	98 0	
Senate	48 0	(Senate amended)
House	93 0	(House concurred)

Effective: June 13, 2002
January 1, 2003 (Sections 2-4)

Roll Calls on a Bill: 1411 (2001-02)

Brief
Description: Providing public notice of releases of hazardous substances.

2002 Regular Session

Chamber: HOUSE
Bill No.: ESHB 1411
Description: FINAL
PASSAGE
Item No.: 18
Transcript No.: 36
Date: 02-18-2002

Yeas: 98 Nays: 00 Absent: 00 Excused:
00

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballard, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Lysen, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven, Voloria, Wood, Woods, and Mr. Speaker

2002 Regular Session

Chamber: SENATE
Bill No.: ESHB 1411
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE SENATE
Item No.: 8
Transcript No.: 53
Date: 03-07-2002

Yeas: 48 Nays: 00 Absent: 00 Excused:
01

Voting Senators Benton, Brown, Carlson, Costa, Deccio, Eide, Fairley,
yea: Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen,
Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser,
Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke,
Parlette, Poulsen, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan,
Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker,
Thibaudeau, West, Winsley, Zarelli

Excused: Senator Hewitt

2002 Regular Session

Chamber: HOUSE
Bill No.: ESHB 1411
Description: FINAL PASSAGE AS AMENDED BY THE
SENATE
Item No.: 1
Transcript No.: 57
Date: 03-11-2002

Yeas: 93 Nays: 00 Absent: 00 Excused:
05

Voting Representatives Ahern, Alexander, Anderson, Armstrong, Ballard,
yea: Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes,
Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway,
Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn,
Dunshee, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky,
Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett,
Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, Lysen, Mastin,
McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell,
Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug,
Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler,
Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan,
Sump, Talcott, Tokuda, Upthegrove, Van Luven, Veloria, Wood, Woods,
and Mr. Speaker

Excused: Representatives Edwards, Lisk, Morris, Quall, Schmidt

ENGROSSED SUBSTITUTE HOUSE BILL 2305

Clarifying the application of shoreline master program guidelines and master programs to agricultural activities on agricultural lands

PROGRAM / AGENCY IMPACTS

The bill establishes limits and requirements for the regulations contained within a local Shoreline Master Program applicable to agricultural lands and uses. It has no effect unless and until a master program is rewritten in response to new state shoreline guidelines or is otherwise updated after the effective date. The effective date is the earlier of January 1, 2004, or the date Ecology updates the guidelines.

The bill is essentially a broadly defined grandfathering provision for existing agriculture combined with a mandate to regulate per the local master program conversion of non-agricultural land to agricultural use (new agriculture), and conversion of agricultural land to non agricultural use, regardless of whether a permit is required. It does not alter or amend the definition of substantial development applicable to agricultural uses.

RESOURCE IMPACTS

Related resource impacts will be light. This bill will require local governments when developing and amending Shoreline Master Programs, and the department in reviewing and approving such programs, to ensure that they do not require modification or limitation of agricultural activities occurring on existing agricultural lands.

WORK PLAN

The limitations and requirements of this bill related to agricultural uses and activities will need to be considered and complied with in drafting new shorelines guidelines rules. It is anticipated that some guidance will need to be developed explaining how the bill applies to local government shoreline decision-making. This may require some stakeholder review and outreach.

Contact person: Peter Skowlund – Shoreland Environmental Assistance Program;
Phone: (360) 407-6522; E-mail: psko461@ecy.wa.gov

FINAL BILL REPORT

ESHB 2305

C 298 L 02

Synopsis as Enacted

Brief Description: Clarifying the application of shoreline master program guidelines and master programs to agricultural activities on agricultural lands.

Sponsors: By House Committee on Local Government & Housing (originally sponsored by Representatives Hatfield, Doumit, Kessler, Grant, Kirby, Edwards and Linville).

House Committee on Local Government & Housing
Senate Committee on Natural Resources, Parks & Shorelines

Background:

The Shoreline Management Act (SMA) governs all shorelines of the state, including both shorelines and shorelines of state-wide significance. Shorelines include all water areas, including reservoirs, and their associated shorelands except: (1) shorelines of statewide significance; (2) shorelines on segments of streams upstream of a point at which the mean annual flow is less than or equal to 20 cubic feet per second (cfs); and (3) shorelines on lakes fewer than 20 acres in size. Shorelands include the lands extending landward 200 feet in all directions from the ordinary high water mark as well as floodways and contiguous floodplain areas landward 200 feet from the floodways. Shorelands also include all wetlands and river deltas associated with streams, lakes and tidal waters subject to the SMA.

The SMA requires counties and cities with shorelines to adopt local shoreline master programs regulating land use activities in shoreline areas of the state and to enforce those master programs within their jurisdictions. All 39 counties and more than 200 cities have enacted master programs.

The SMA also requires the Department of Ecology (DOE) to adopt guidelines for local governments to use when developing these local shoreline master programs. The DOE may propose amendments to the guidelines no more than once per year and must review the guidelines at least once every five years.

Local governments must develop or amend shoreline master programs consistent with the DOE guidelines within 24 months after the DOE guidelines are adopted. The DOE considers the adopted guidelines and SMA requirements when reviewing and approving local shoreline master programs.

Summary:

Provisions regarding agricultural activities on agricultural lands are added to the Shoreline Management Act (SMA) to govern amendment or adoption of both shoreline master program guidelines by the Department of Ecology (DOE) and shoreline master programs by local governments. Definitions of "agricultural activities," "agricultural products," "agricultural equipment," "agricultural facilities," and "agricultural land" are added to the SMA with respect to these provisions.

The DOE's state shoreline master program guidelines and the local shoreline master programs based on those guidelines may not require modification of or limit agricultural activities occurring on agricultural lands. Local shoreline master programs for jurisdictions in which agricultural activities occur, however, must address the following activities:

- new agricultural activities on land not meeting the SMA's definition of "agricultural land";
- conversion of agricultural lands to other uses; and
- development not meeting the SMA's definition of "agricultural activities."

The agricultural activities provisions do not limit or change the terms of the statutory substantial development definition exception. These new provisions apply only to the SMA and do not affect other local government authority.

These provisions take effect the earlier of January 1, 2004, or the date the DOE amends or updates the SMA guidelines.

Votes on Final Passage:

House	73	25	
Senate	31	17	(Senate amended)
House	94	0	(House concurred)

Effective: January 1, 2004 (Unless the Department of Ecology updates Shoreline Master Guidelines earlier)

Roll Calls on a Bill: 2305 (2001-02)

Brief Description: Clarifying the application of shoreline master program guidelines and master programs to agricultural activities on agricultural lands.

2002 Regular Session

Chamber: HOUSE
Bill No.: ESHB 2305
Description: 221 MULLIKEN PG 2 LN
1
Item No.: 19
Transcript No.: 36
Date: 02-18-2002

Yeas: 51 Nays: 47 Absent: 00 Excused: 00

Voting yea: Representatives Ahern, Alexander, Armstrong, Ballard, Ballasiotes, Barlean, Berkey, Boldt, Buck, Bush, Campbell, Carrell, Chandler, Clements, Cox, Crouse, DeBolt, Delvin, Doumit, Dunn, Eickmeyer, Ericksen, Grant, Haigh, Hankins, Hatfield, Holmquist, Kessler, Kirby, Linville, Lisk, Mastin, McMorris, Mielke, Morris, Mulliken, O'Brien, Ogden, Orcutt, Pearson, Quall, Roach, Santos, Schindler, Schoesler, Sehlin, Skinner, Sullivan, Sump, Talcott, Woods

Voting nay: Representatives Anderson, Benson, Cairnes, Casada, Chase, Cody, Conway, Cooper, Darneille, Dickerson, Dunshee, Edwards, Esser, Fisher, Fromhold, Gombosky, Hunt, Hurst, Jackley, Jarrett, Kagi, Kenney, Lantz, Lovick, Lysen, McDermott, McIntire, Miloscia, Mitchell, Morell, Murray, Nixon, Pflug, Reardon, Rockefeller, Romero, Ruderman, Schmidt, Schual-Berke, Simpson, Sommers, Tokuda, Upthegrove, Van Luven, Voloria, Wood, and Mr. Speaker

2002 Regular Session

Chamber: HOUSE
Bill No.: ESHB 2305
Description: 291 DUNSHEE
STRIKER
Item No.: 20
Transcript No.: 36
Date: 02-18-2002

Yeas: 40 Nays: 58 Absent: 00 Excused:
00

Voting Representatives Chase, Cody, Conway, Cooper, Darneille, Dickerson,
yea: Dunshee, Edwards, Eickmeyer, Fisher, Fromhold, Gombosky, Haigh, Hunt,
Hurst, Jackley, Kagi, Kenney, Kirby, Lantz, Linville, Lovick, Lysen,
McDermott, McIntire, Miloscia, Murray, Reardon, Rockefeller, Romero,
Ruderman, Schual-Berke, Simpson, Sommers, Sullivan, Tokuda,
Upthegrove, Veloria, Wood, and Mr. Speaker

Voting Representatives Ahern, Alexander, Anderson, Armstrong, Ballard,
nay: Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes,
Campbell, Carrell, Casada, Chandler, Clements, Cox, Crouse, DeBolt,
Delvin, Doumit, Dunn, Ericksen, Esser, Grant, Hankins, Hatfield, Holmquist,
Jarrett, Kessler, Lisk, Mastin, McMorris, Mielke, Mitchell, Morell, Morris,
Mulliken, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Roach,
Santos, Schindler, Schmidt, Schoesler, Sehlin, Skinner, Sump, Talcott, Van
Luven, Woods

2002 Regular Session

Chamber: HOUSE
Bill No.: ESHB 2305
Description: FINAL
PASSAGE
Item No.: 21
Transcript 36
No.:
Date: 02-18-2002

Yeas: 73 Nays: 25 Absent: 00 Excused:
00

Voting Representatives Ahern, Alexander, Anderson, Armstrong, Ballard,
yea: Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes,
Campbell, Carrell, Casada, Chandler, Clements, Conway, Cox, Crouse,
DeBolt, Delvin, Doumit, Dunn, Eickmeyer, Ericksen, Esser, Fromhold, Grant,
Haigh, Hankins, Hatfield, Holmquist, Hurst, Jackley, Jarrett, Kessler, Kirby,
Linville, Lisk, Lovick, Mastin, McMorris, Mielke, Miloscia, Mitchell, Morell,
Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug,
Quall, Reardon, Roach, Santos, Schindler, Schmidt, Schoesler, Sehlin,
Skinner, Sommers, Sullivan, Sump, Talcott, Van Luven, Woods, and Mr.
Speaker

Voting Representatives Chase, Cody, Cooper, Darneille, Dickerson, Dunshee,
nay: Edwards, Fisher, Gombosky, Hunt, Kagi, Kenney, Lantz, Lysen, McDermott,

McIntire, Rockefeller, Romero, Ruderman, Schual-Berke, Simpson, Tokuda,
Upthegrove, Veloria, Wood

2002 Regular Session

Chamber: SENATE
Bill No.: ESHB 2305
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE
SENATE
Item No.: 48
Transcript No.: 53
Date: 03-07-2002

Yeas: 31 Nays: 17 Absent: 00 Excused:
01

Voting yea: Senators Benton, Brown, Carlson, Deccio, Eide, Hale, Hargrove, Haugen,
Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Long,
McDonald, Morton, Oke, Parlette, Rasmussen, Regala, Roach, Sheahan,
Sheldon, T., Shin, Snyder, Stevens, Swecker, West, Zarelli

Voting nay: Senators Costa, Fairley, Finkbeiner, Franklin, Fraser, Gardner,
Hochstatter, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Rossi,
Sheldon, B., Spanel, Thibaudeau, Winsley

Excused: Senator McCaslin

2002 Regular Session

Chamber: HOUSE
Bill No.: ESHB 2305
Description: FINAL PASSAGE AS AMENDED BY THE
SENATE
Item No.: 4
Transcript No.: 57
Date: 03-11-2002

Yeas: 94 Nays: 00 Absent: 00 Excused:
04

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballard,
Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes,
Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway,

Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, Lysen, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven, Veloria, Wood, Woods, and Mr. Speaker

Excused: Representatives Edwards, Lisk, Quall, Schmidt

SUBSTITUTE HOUSE BILL 2308

Encouraging recycling and waste reduction

PROGRAM / AGENCY IMPACTS

Section 7 of the bill directs Ecology to designate a portion of the responsibilities of existing staff to complete a study of scrap tires as alternative daily cover for landfills and the feasibility of establishing and maintaining an incentive program for market development for scrap tires.

Section 9 of the bill directs Ecology to track and report annually to the Legislature on tire recycling and reuse.

RESOURCE IMPACTS

Existing resources will implement the Ecology provisions of the bill.

We will review other states' experience with this use of tires, then devise our own technical guidance and provide it to local governments and to private landfills.

Existing resources will be used to track and report tire recycling data annually to the Legislature. We have received commitments from several tire dealers to help in this effort. Since the reporting is voluntary, we do not expect a completely accurate accounting.

WORK PLAN

SECTION 7:

This bill requires Ecology to study the use of tires as alternative daily cover for landfills and the feasibility of maintaining an incentive program for market development of scrap tires.

An Environmental Engineer will compile existing data from other states on the use of scrap tires as alternative daily cover, evaluate that data against existing Washington requirements, and make a determination whether tires can be used as alternative daily cover.

An Environmental Specialist 3 will compile and evaluate existing data from Washington and other states on the feasibility of maintaining an incentive program for market development for scrap tires.

The study is to be completed and submitted to the appropriate standing committees of the Legislature by December 31, 2002.

SECTION 9:

An Environmental Specialist 1 or 2 will track and report to the Legislature on the number of tires being reused or recycled in the previous year. This information request would be incorporated into the existing annual facility reporting requirements.

Contact Person: Randy Martin – Solid Waste & Financial Assistance Program
Phone: (360) 407-6136; E-mail: rama461@ecy.wa.gov

FINAL BILL REPORT

SHB 2308

C 299 L 02
Synopsis as Enacted

Brief Description: Encouraging recycling and waste reduction.

Sponsors: By House Committee on Agriculture & Ecology (originally sponsored by Representatives Linville, Schoesler, Anderson, Dunshee, Lovick, Lantz, Santos, Rockefeller, Berkey, Conway, Wood, Edwards, Cooper, Hunt, Fromhold, Dickerson, Cody, Simpson, Upthegrove, Kagi and McIntire).

House Committee on Agriculture & Ecology
House Committee on Appropriations
Senate Committee on Environment, Energy & Water

Background:

The Waste-Not Washington Act of 1989 established a policy framework for waste reduction, reuse, and recycling that included setting a goal for the state to recycle 50 percent by 1995, expanding of local government solid waste planning, conducting a waste characterization survey, reporting requirements, and regulating solid waste collection companies.

According to the Department of Ecology, the state's recycling rate reached a high of 39 percent in 1996 and declined to under 33 percent in 1997. The department convened the Recycling Assessment Panel to evaluate causes in the recycling rate decline and to recommend responses. The panel's report was presented in February 2000 and included recommendations for legislation. Among the recommendations were plans for increasing commercial recycling, increasing the efficiency of residential recycling, increasing organic material recycling, addressing land-clearing waste, and raising awareness statewide.

Summary:

The Legislature finds that it is the state's goal to establish programs to eliminate residential or commercial yard debris in landfills by 2012 in those areas where alternatives to disposal are available and effective.

The Department of General Administration (GA) is required to work with the commercial and industrial construction industry to develop guidelines for implementing on-site construction waste management. The guidelines must address standards for identifying the types of wastes generated, methods for

analyzing the availability and cost-effectiveness of recycling services, methods for evaluating waste management alternatives if there is a lack of recycling services, strategies to maximize reuse and recycling, standardized formats for on-site waste management planning, and training and technical assistance for building managers and construction professionals in order to facilitate the incorporation of waste management planning and recycling into standard industry practice. The GA must report on these guidelines to the Legislature by December 15, 2002. The GA is also directed to develop goals for state use of recycled or environmentally preferable products and services, contractor selection, and contract negotiations.

Any construction project that receives state funding must apply legislatively adopted product standards to the materials used in the project. The standards do not need to be applied if the administering agency and project owner determine that applying the standards would not be cost-effective or the products were not readily available.

Companies that collect recyclable materials are allowed to retain up to 30 percent of the revenue paid to the company for the materials. To participate in this program, a company must have a plan certified by the appropriate local government authority that demonstrates how retaining the revenue will be used to increase recycling. The Utilities and Transportation Commission must evaluate the effectiveness of this revenue sharing proposition and report to the Legislature in 2005.

The Department of Ecology (DOE) is instructed to investigate and draw conclusions by December 31, 2002, on the use of scrap tires as alternative daily cover for landfills and the feasibility of establishing and maintaining an incentive program for scrap tire market development. The investigation of alternative daily cover must include a review of specifications developed by other states and an analysis of how those specifications apply to Washington. The investigation of market development must include research into the availability of funding and proposed criteria for such a program. The DOE must also work with private-sector stakeholders to track and annually report increases or decreases in the state's tire recycling rates.

The Department of Transportation must evaluate scrap tire uses in civil engineering and road building applications, and report their finding to the legislature by November 30, 2003. This study must include the feasibility of using scrap tires in lightweight fills and an analysis of using rubber-modified asphalt in highway projects.

Votes on Final Passage:

House	98 0
Senate	46 0

Effective: June 13, 2002

Roll Calls on a Bill: 2308 (2001-02)

Brief
Description: Encouraging recycling and waste
reduction.

2002 Regular Session

Chamber: HOUSE
Bill No.: SHB 2308
Description: FINAL
PASSAGE
Item No.: 6
Transcript
No.: 33
Date: 02-15-2002

Yeas: 98 Nays: 00 Absent: 00 Excused:
00

Voting Representatives Ahern, Alexander, Anderson, Armstrong, Ballard,
yea: Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes,
Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway,
Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn,
Dunshee, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold,
Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst,
Jackley, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick,
Lysen, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell,
Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson,
Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos,
Schindler, Schmidt, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner,
Sommers, Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven,
Veloria, Wood, Woods, and Mr. Speaker

2002 Regular Session

Chamber: SENATE
Bill No.: SHB 2308
Description: 3RD READING & FINAL
PASSAGE
Item No.: 30
Transcript
No.: 52
Date: 03-06-2002

Yeas: 46 Nays: 00 Absent: 00 Excused:
03

Voting Senators Benton, Brown, Carlson, Costa, Deccio, Eide, Fairley,
yea: Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt,
 Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser,
 Kline, Kohl-Welles, Long, McAuliffe, Morton, Oke, Parlette, Prentice,
 Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T.,
 Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley,
 Zarelli

Excused: Senators McCaslin, McDonald, Poulsen

SUBSTITUTE HOUSE BILL 2446

Setting time limits for review of water and sewer general comprehensive plans

PROGRAM / AGENCY IMPACTS

This bill establishes time limits for review of water and sewer plans. The bill adds a definition of 'general sewer plan' in RCW 90.48.020 to include sewer plans from cities, towns, Public Utility Districts (PUDs), water-sewer districts and other local governments submitted to Ecology for review. The bill also amends RCW 90.48.110 to require Ecology to take a written action (approve, conditionally approve, reject, or request amendments) on new or revised general sewer plans submitted for agency review within 90 days of receipt. New submittals may be extended an additional ninety days if insufficient review time exists. Additional extensions may be made by mutual agreement.

RESOURCE IMPACTS

Water quality regions have indicated that they have sufficient resources to conduct general sewer plan reviews within the required time frames.

WORK PLAN

Reviews are conducted in Ecology's regional offices. Each region must establish a tracking system for receipt and response to general sewer plans within a 90 day review period.

There are currently no resources allocated to amend Chapter 173-240 WAC. However, when Chapter 173-240 WAC is updated, WAC 173-240-030 should be amended to include response times.

Contact person: Kathy Cupps – Water Quality Program
Phone: (360) 407-6452; E-mail: kcup461@ecy.wa.gov

FINAL BILL REPORT

SHB 2446

C 161 L 02

Synopsis as Enacted

Brief Description: Setting time limits for review of water and sewer general comprehensive plans.

Sponsors: By House Committee on Local Government & Housing (originally sponsored by Representatives Miloscia, Mulliken, DeBolt and Dunshee).

House Committee on Local Government & Housing
Senate Committee on Environment, Energy & Water

Background:

Districts providing water-sewer service must adopt a plan for the type of facilities the district proposes to provide and may either combine all services into a single general plan or prepare a separate general plan for each of these services.

Prior to the plan becoming effective, the general plan must be approved by any state agency whose approval may be required by applicable law. Also, amendments to, alterations of, or additions to the general plan requires the same approval process. This approval process applies to a city or town legislative authority only when an amendment, alteration, or addition to the general plan affects the particular city or town.

Summary:

A water or sewer plan submitted- for review by a state agency must either be approved, conditionally approved, rejected, or have amendments requested within 90 days after submission. This time line may be extended another 90 days if insufficient time exists to adequately review the plan.

For rejections or extensions of the plan, the agency must give a reason in writing.

The governing body of any district submitting a plan may mutually agree with the agency reviewing the plan for an extension of the deadline.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)

House 94 0 (House concurred)

Effective: June 13, 2002

Roll Calls on a Bill: 2446 (2001-02)

Brief Setting time limits for review of water and sewer general
Description: comprehensive plans.

2002 Regular Session

Chamber: HOUSE
Bill No.: SHB 2446
Description: FINAL
 PASSAGE
Item No.: 29
Transcript 31
No.:
Date: 02-13-2002

Yeas: 98 Nays: 00 Absent: 00 Excused:
00

Voting Representatives Ahern, Alexander, Anderson, Armstrong, Ballard,
yea: Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes,
 Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway,
 Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn,
 Dunshee, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold,
 Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst,
 Jackley, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick,
 Lysen, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell,
 Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson,
 Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos,
 Schindler, Schmidt, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner,
 Sommers, Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven,
 Voloria, Wood, Woods, and Mr. Speaker

2002 Regular Session

Chamber: SENATE
Bill No.: SHB 2446
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE
 SENATE
Item No.: 7
Transcript 53
No.:
Date: 03-07-2002

Yeas: 49 Nays: 00 Absent: 00 Excused:
00

Voting Senators Benton, Brown, Carlson, Costa, Deccio, Eide, Fairley, Finkbeiner,
yea: Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter,
Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles,
Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Poulsen,
Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B.,
Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West,
Winsley, Zarelli

2002 Regular Session

Chamber: HOUSE
Bill No.: SHB 2446
Description: FINAL PASSAGE AS AMENDED BY THE
SENATE
Item No.: 7
Transcript No.: 57
Date: 03-11-2002

Yeas: 94 Nays: 00 Absent: 00 Excused:
04

Voting Representatives Ahern, Alexander, Anderson, Armstrong, Ballard,
yea: Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes,
Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway,
Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn,
Dunshee, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky,
Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett,
Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, Lysen, Mastin,
McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris,
Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug,
Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler,
Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan,
Sump, Talcott, Tokuda, Upthegrove, Van Luven, Veloria, Wood, Woods,
and Mr. Speaker

Excused: Representatives Edwards, Lisk, Quall, Schmidt

HOUSE BILL 2526

Providing exemptions from SEPA for reductions of city limits and disincorporations

PROGRAM / AGENCY IMPACTS

This bill exempts from the State Environmental Policy Act (SEPA) disincorporation of a city or town or the reduction of city or town limits. This is a local government issue that should not influence Ecology, aside from a required minor “housekeeping” amendment to the SEPA Rules, Ch 197-11 WAC to reflect the added exemptions.

RESOURCE IMPACTS

None

WORK PLAN

This is a statutory exemption that automatically becomes effective. It should be added to the SEPA Rules at some point, but a special rule making effort is not needed. Information on the exemption will be included in future SEPA training sessions.

Contact person: Barbara Ritchie – Shoreland Environmental Assistance Program;
Phone: (360) 407-6922; E-mail: brit461@ecy.wa.gov

FINAL BILL REPORT

HB 2526

C 93 L 02

Synopsis as Enacted

Brief Description: Providing exemptions from SEPA for reductions of city limits and disincorporations.

Sponsors: By Representatives Berkey, Mulliken, Dunshee, Mielke, Kirby, Crouse and Linville.

House Committee on Local Government & Housing
Senate Committee on Environment, Energy & Water

Background:

The State Environmental Policy Act (SEPA) requires a governmental entity, whether state or local, to analyze the environmental impacts of its major actions. The Department of Ecology has adopted rules to implement the SEPA. The lead agency must make a threshold determination of whether the proposal has probable significant adverse environmental impacts. If the lead agency determines that it does, an Environmental Impact Statement (EIS) must be prepared. An agency's decision under the SEPA is subject to review administratively, if allowed by the agency, and judicially. The department's rules under the SEPA also apply to proposed reductions of city or town limits and proposed disincorporations of cities or towns.

Summary:

Reductions of city or town limits and disincorporations of cities or towns are exempted from compliance with the State Environmental Policy Act.

Votes on Final Passage:

House	97 0
Senate	48 0

Effective: June 13, 2002

Roll Calls on a Bill: 2526 (2001-02)

Brief Description: Providing exemptions from SEPA for reductions of city limits and disincorporations.

2002 Regular Session

Chamber: HOUSE
Bill No.: HB 2526
Description: FINAL
PASSAGE
Item No.: 23
Transcript No.: 30
Date: 02-12-2002

Yeas: 97 Nays: 00 Absent: 00 Excused:
01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballard, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Lysen, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schmidt, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven, Veloria, Wood, Woods, and Mr. Speaker

Excused: Representative Schindler

2002 Regular Session

Chamber: SENATE
Bill No.: HB 2526
Description: 3RD READING & FINAL
PASSAGE
Item No.: 5
Transcript No.: 54
Date: 03-08-2002

Yeas: 48 Nays: 00 Absent: 00 Excused:
01

Voting Senators Benton, Brown, Carlson, Costa, Deccio, Eide, Fairley,
yea: Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt,
 Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser,
 Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke,
 Parlette, Poulsen, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan,
 Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Swecker, Thibaudeau,
 West, Winsley, Zarelli

Excused: Senator Stevens

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2671

Creating the permit assistance center in the office of the governor

PROGRAM / AGENCY IMPACTS

The Office of Permit Assistance (OPA) is created in the Office of Financial Management, to be administered by the Office of the Governor. All funding, powers, duties, functions, and records of the Permit Assistance Center currently operating within the Department of Ecology are transferred to the OPA.

Duties of the OPA are specified. The OPA must:

- provide information services, including permit handbooks and contact persons;
- develop a call center;
- develop a web site;
- provide facilitation services upon request, which include appointing a project facilitator to assist project applicants to determine applicable regulatory requirements, processes, and permits and providing information and options for obtaining required permits;
- complete project scoping within 60 days of request with relevant state and local permit agencies and the project applicant to identify issues and information needs regarding the project.
- provide active project coordination either (1) upon the project applicant's request based on a written cost reimbursement agreement; or (2) with the project applicant's assent and at the OPA's expense when the OPA determines it is in the public interest to do so.
- assign a project coordinator to, among other responsibilities, conduct a project scoping, serve as the project applicant's contact person, coordinate permit processes, and assist in resolving conflicts.
- administer a cost reimbursement program utilizing outside consultants to perform permit review and processing consistent with the coordinated permit process;
- work to develop informal processes for dispute resolution between agencies and project applicants;
- conduct customer surveys to evaluate its effectiveness;
- review initiatives developed by the Transportation Permit Efficiency and Accountability Committee to determine if any would be beneficial if implemented for other projects;
- prioritize expenditures of general fund money to provide services to small project applicants; and

- provide biennial reports to the Legislature on OPA performance, on any identified statutory or regulatory conflicts related to authorities and roles of permit agencies, and on use of outside independent consultants in the coordinated permit process.

RESOURCE IMPACTS

Annual Ecology financial resources to implement E2SHB 2671 have been reduced by \$80,000 (from 580,000 to 500,000, or an approximately 15% reduction), and transferred to the Office of Financial Management. Ecology has no appropriation to implement E2SHB2671.

WORK PLAN

Ecology will work with the Office of Financial Management and the Office of the Governor to transfer administration of the existing Permit Assistance Center (housed at Ecology) to the Office of Financial Management as the Office of Financial Management readies itself to launch the new and expanded Office of Permit Assistance.

Contact person: Scott Boettcher – Shoreland Environmental Assistance Program
Phone: (360) 407-7564; E-mail: sboe461@ecy.wa.gov

FINAL BILL REPORT

E2SHB 2671

PARTIAL VETO

C 153 L 02

Synopsis as Enacted

Brief Description: Creating the permit assistance center in the office of the governor.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Linville, Romero, Reardon, Simpson, Gombosky, Grant, Veloria, Kessler, Conway, Doumit, Hatfield, Ogden, Morris, Kenney, Dickerson, Edwards, Chase, Schual-Berke, Wood, Rockefeller, Jackley, Kagi and McDermott).

House Committee on Agriculture & Ecology

House Committee on Appropriations

Senate Committee on Environment, Energy & Water

Senate Committee on Ways & Means

Background:

The Permit Assistance Center (PAC) was created in 1995 in the Department of Ecology (DOE) to provide information regarding environmental permitting laws and assistance to businesses and public agencies in complying with these laws. In addition to other requirements, the PAC was directed to develop and provide a coordinated state permitting procedure that project applicants could use at their option and expense and was authorized by statute to recover costs for this coordinated permit process.

The PAC's statutory provisions were subject to a sunset provision. Although the Joint Legislative Audit and Review Committee (JLARC) prepared a sunset review recommending reauthorization, the PAC's statutory provisions expired on June 30, 1999. An appropriation in the 1999-2001 budget continued funding for PAC operations, and it continues to operate within the DOE.

Summary:

The Office of Permit Assistance (OPA) is created in the Office of Financial Management, to be administered by the Office of the Governor. All funding, powers, duties, functions, and records of the Permit Assistance Center (PAC) currently operating within the Department of Ecology (PAC) are transferred to the OPA. Provisions are included for transfer of PAC authority to the OPA and for validity of prior and pending actions.

The OPA is required to operate on the principle that state citizens should receive:

- a date and time for a decision on a permit;
- the information required to make a decision on a permit, recognizing that project changes or other circumstances may change the information required; and
- an estimate of the maximum amount of costs in fees, studies, or public processes that will be incurred by the project applicant.

For purposes of the OPA provisions, "permit" is defined as any permit, certificate, use authorization, or other form of governmental approval required to construct or operate a project. Other definitions related to the OPA or permitted projects are included.

Duties of the OPA are specified. The OPA must provide information services, including permit handbooks and contact persons, and must develop a call center and a web site. The OPA also must provide facilitation services upon request, which include appointing a project facilitator to assist project applicants to determine applicable regulatory requirements, processes, and permits and providing information and options for obtaining required permits. The OPA also must complete a project scoping within 60 days of request with relevant state and local permit agencies and the project applicant to identify issues and information needs regarding the project. Items to be identified through project scoping are identified. The outcome of the project scoping must be documented in written form, provided to the project applicant, and made available to the public. Neither the OPA's facilitation services nor its operating principles may be construed to create an independent cause of action, affect an existing cause of action, or establish time limits for purposes of RCW 64.40.020.

Further, the OPA may provide active project coordination either: (1) upon the project applicant's request based on a written cost reimbursement agreement; or (2) with the project applicant's assent and at the OPA's expense when the OPA determines it is in the public interest to do so. The OPA must assign a project coordinator to, among other responsibilities, conduct a project scoping, serve as the project applicant's contact person, coordinate permit processes, and assist in resolving conflicts. The project coordinator may coordinate negotiations for a written cost reimbursement agreement.

The written cost reimbursement agreement may be negotiated to recover the reasonable costs incurred by the OPA, permit agencies, and outside independent consultants selected to perform permit review and processing consistent with the coordinated permit process. Only the costs of performing permit services coordinated through the coordinated permitting process may be recovered in this manner. Any independent consultants hired under the cost reimbursement agreement report directly to the permit agency. Provisions are

included for development of a cost reimbursement policy; bidding, negotiation and development of the cost reimbursement agreement; avoiding conflicts of interest; billing; initiation of agency participation; and notification of a permitting agency's inability to meet its contractual obligations.

In addition to these responsibilities, the OPA must:

- work to develop informal processes for dispute resolution between agencies and project applicants;
- conduct customer surveys to evaluate its effectiveness;
- review initiatives developed by the Transportation Permit Efficiency and Accountability Committee to determine if any would be beneficial if implemented for other projects;
- prioritize expenditures of general fund money to provide services to small project applicants; and
- provide biennial reports to the Legislature on OPA performance, on any identified statutory or regulatory conflicts related to authorities and roles of permit agencies, and on use of outside independent consultants in the coordinated permit process.

An 11-member Permit Assistance Advisory Council (council) is created. The council includes seven members appointed by the Governor to represent business, the environmental community, agriculture, port districts, counties, cities, and tribes. Four legislative members, two from the Senate and two from the House of Representatives, serve on the council as nonvoting members. Council appointments must reflect geographical balance and population diversity. Members serve four-year terms, and provisions are included for staggering of initial terms, vacancies, reimbursements, meetings, and governance. The council must:

- assess the performance of the OPA;
- review annual customer surveys to determine the OPA's effectiveness; and
- recommend changes to improve OPA performance.

Provisions creating the OPA do not affect the jurisdiction of the Energy Facility Site Evaluation Council. The OPA provisions do not abrogate or diminish functions, powers, or duties granted to any permit agency and do not grant the OPA authority to decide if a permit will be issued.

The OPA provisions expire on June 30, 2007. The Joint Legislative and Audit Review Committee must work within its existing resources to conduct the sunset review of the OPA.

Votes on Final Passage:

House 72 26

Senate	48 0	(Senate amended)
House		(House refused to concur)
Senate	46 1	(Senate amended)
House	95 2	(House concurred)

Effective: June 13, 2002

Partial Veto Summary: The Governor vetoed the emergency clause and the provisions creating the Permit Assistance Advisory Council.

Roll Calls on a Bill: 2671 (2001-02)

Brief Creating the permit assistance center in the office of the governor.
Description: **Revised for 1st Substitute:** Creating the permit assistance center in
 the department of ecology.
 Revised for 2nd Substitute: Creating the permit assistance center in
 the department of ecology. (REVISED FOR ENGROSSED: Creating
 the permit assistance center in the office of the governor.)

2002 Regular Session

Chamber: HOUSE
Bill No.: E2SHB 2671
Description: FINAL
 PASSAGE
Item No.: 4
Transcript 34
No.:
Date: 02-16-2002

Yeas: 72 Nays: 26 Absent: 00 Excused:
00

Voting Representatives Alexander, Anderson, Barlean, Berkey, Bush, Campbell,
yea: Carrell, Chandler, Chase, Cody, Conway, Cooper, Darneille, DeBolt,
 Dickerson, Doumit, Dunshee, Edwards, Eickmeyer, Ericksen, Esser, Fisher,
 Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hunt, Hurst, Jackley,
 Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Lysen,
 McDermott, McIntire, Miloscia, Morris, Murray, Nixon, O'Brien, Ogden,
 Pearson, Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman,
 Santos, Schmidt, Schual-Berke, Sehlin, Simpson, Sommers, Sullivan,
 Talcott, Tokuda, Upthegrove, Van Luven, Voloria, Wood, Woods, and Mr.
 Speaker

Voting Representatives Ahern, Armstrong, Ballard, Ballasiotes, Benson, Boldt,
nay: Buck, Cairnes, Casada, Clements, Cox, Crouse, Delvin, Dunn, Holmquist,
 Mastin, McMorris, Mielke, Mitchell, Morell, Mulliken, Orcutt, Schindler,
 Schoesler, Skinner, Sump

2002 Regular Session

Chamber: SENATE
Bill No.: E2SHB 2671
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE
 SENATE
Item No.: 19

Transcript 54
No.:
Date: 03-08-2002

Yeas: 48 Nays: 00 Absent: 00 Excused:
01

Voting Senators Benton, Brown, Carlson, Costa, Deccio, Eide, Fairley,
yea: Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt,
 Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser,
 Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke,
 Parlette, Poulsen, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan,
 Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, West,
 Winsley, Zarelli

Excused: Senator Thibaudeau

2002 Regular Session

Chamber: SENATE
Bill No.: E2SHB 2671
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE
 SENATE
Item No.: 9
Transcript 59
No.:
Date: 03-13-2002

Yeas: 46 Nays: 01 Absent: 00 Excused:
02

Voting Senators Benton, Brown, Carlson, Costa, Deccio, Eide, Fairley,
yea: Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt,
 Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Keiser, Kohl-Welles,
 Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Poulsen,
 Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B.,
 Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, West, Winsley,
 Zarelli

Voting Senator Thibaudeau
nay:

Excused: Senators Kastama, Kline

2002 Regular Session

Chamber: HOUSE

Bill No.: E2SHB 2671
Description: FINAL PASSAGE AS AMENDED BY THE
SENATE
Item No.: 14
Transcript No.: 59
Date: 03-13-2002

Yeas: 95 Nays: 02 Absent: 00 Excused:
01

Voting
yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballard,
Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes,
Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway,
Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn,
Dunshee, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold,
Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst,
Jackley, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick,
Lysen, Mastin, McDermott, McIntire, McMorris, Miloscia, Mitchell, Morell,
Morris, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall,
Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler,
Schmidt, Schoesler, Schual-Berke, Sehlin, Simpson, Sommers, Sullivan,
Sump, Talcott, Tokuda, Upthegrove, Van Luven, Veloria, Wood, Woods,
and Mr. Speaker

Voting
nay: Representatives Mielke, Mulliken

Excused: Representative Skinner

SECOND SUBSTITUTE HOUSE BILL 2867

Mitigating the effects of the aquatic pesticide national pollutant discharge elimination system permit required as the result of a recent court decision

PROGRAM / AGENCY IMPACTS

This bill deletes some obsolete language in the permit fee statutes, establishes a maximum fee of \$300.00 for aquatic pesticide permits until June 30, 2003, and adds a requirement that Ecology take appropriate action to rescind or modify the permits under certain circumstances. The intent of the fee cap is to mitigate the monetary effects of aquatic pesticide national pollutant discharge elimination system (NPDES) permits required as the result of a recent federal court decision. This bill prevents Ecology from charging fees sufficient to cover costs for those permits. If the federal court decision is modified or overturned by subsequent events, Ecology is required to take action to modify or rescind the permits as appropriate.

RESOURCE IMPACTS

The fee cap imposed by the bill will not bring in sufficient fees to cover Ecology's costs to develop and administer these particular permits. The deficit is estimated at \$185,000 to \$225,000 per year. Total costs for administration of the aquatic pesticides permit program is currently estimated at about \$300,000 per year. The bill contains no funding provision for this work. However, the supplemental budget bill contains an increase in our permit fee account appropriation for \$300,000 with a corresponding decrease in General Fund State appropriation, which is assumed to cover this work. The permit fee account has sufficient resources to fund this additional work this biennium.

If the court decision is overturned or modified, Ecology will need to evaluate the impacts to these permits and take action to rescind or modify them. Some additional resources would be required to rescind or modify and reissue the permits, though the amount is unknown at this time.

WORK PLAN

Ecology will issue aquatic pesticide permits as planned and limit permit fees to a maximum of \$300.00 for each permit coverage granted. Revised fee rules will be adopted by July 1, 2002.

Ecology will continue to monitor national and regional events that may affect the need for or conditions of these permits. If such events occur, we will discuss them

with the affected groups and other interested parties prior to taking follow-up action. We have already reviewed new EPA guidance relating to irrigation return flow waters and incorporated it into the final permits issued this year.

Contact person: Kathleen Emmett – Water Quality Program;
Phone: (360) 407-6478; E-mail: kemm461@ecy.wa.gov

FINAL BILL REPORT

2SHB 2867

C 361 L 02

Synopsis as Enacted

Brief Description: Mitigating the effects of the aquatic pesticide national pollutant discharge elimination system permit required as the result of a recent court decision.

Sponsors: By House Committee on Agriculture & Ecology (originally sponsored by Representatives Fromhold, Ogden, McMorris, Grant, Haigh and Delvin).

House Committee on Agriculture & Ecology
House Committee on Appropriations
Senate Committee on Environment, Energy & Water
Senate Committee on Ways & Means

Background:

Federal and State Discharge Permits

The federal Clean Water Act (CWA) establishes the National Pollution Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. The NPDES permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters.

Washington's Department of Ecology (DOE) has been delegated authority by the United States Environmental Protection Agency (EPA) to administer NPDES permits. The DOE also administers state discharge permits. A wastewater discharge permit places limits on the quantity and concentrations of contaminants that may be discharged and may require wastewater treatment or impose operating or other conditions. The DOE issues both individual permits (covering single, specific activities or facilities) and general permits (covering a category of similar dischargers) in the state and NPDES permit programs.

The DOE establishes annual fees to collect expenses for issuing and administering state and NPDES discharge permits. Fees must be based on factors relating to the complexity of permit issuance and compliance and must be established to fully recover but not exceed expenses of the program.

Aquatic Pesticides

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) regulates pesticide use, sales, and labeling. The FIFRA requires that all pesticides and herbicides sold in the United States be registered with the EPA. The EPA has authority under FIFRA to approve the label under which the product is marketed. The EPA also has authority for enforcement under FIFRA.

Aquatic pesticides are chemicals that kill, attract, repel, or control the growth of aquatic pests. The DOE has issued administrative orders for short-term water quality standards modifications when pesticides are applied in or near waterways.

Headwaters, Inc. v. Talent Irrigation District

The Ninth Circuit Court of Appeals (Ninth Circuit) is a federal appellate court with jurisdiction over cases filed in federal district courts in Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington. In March 2001 the Ninth Circuit determined the registration and labeling requirements of FIFRA did not preclude the need for a NPDES permit under the CWA. *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3d 526 (2001). In the *Talent* case, an Oregon irrigation district's direct application of an aquatic herbicide to an irrigation canal without a NPDES permit was challenged after dead fish were found in a creek downstream from the canal's leaking waste gate. The Ninth Circuit concluded in *Talent* that the herbicide application met the four-part test for establishing a violation of the CWA's NPDES permit requirement: a showing that a defendant (1) discharged (2) a pollutant (3) to navigable waters (4) from a point source. Further, the Ninth Circuit determined in *Talent* that the EPA-approved label on the herbicide did not eliminate the irrigation district's obligation to obtain a NPDES permit.

Department of Ecology Permit Development

In October 2001 the DOE issued notice of development of NPDES permits for the use of aquatic pesticides in lakes, rivers, and estuaries in this state. Permits are being developed for:

- aquatic plant management in irrigation ditches;
- mosquito larva control in still waters;
- aquatic plant management in lakes and streams;
- burrowing shrimp control on oyster beds;
- noxious emergent plant management in wetlands and shorelines;
- nuisance plant management in ditch banks and mitigated wetlands; and
- fish management in lakes.

Summary:

A maximum National Discharge Elimination Permit System (NPDES) permit fee of \$300 is established until June 30, 2003, for any individual or general permits developed solely as a result of the Ninth Circuit's decision in *Talent*. These permits may be required only and as long as the Ninth Circuit's interpretation of *Talent* is not overturned or modified by future court rulings, administrative rule making, clarification of scope by the United States Environmental Protection Agency, or legislative action.

Technical revisions eliminate provisions related to expired requirements.

Votes on Final Passage:

House	94	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate amended)
House	97	0	(House concurred)

Effective: April 4, 2002

Roll Calls on a Bill: 2867 (2001-02)

Brief
Description: Mitigating the effects of the aquatic pesticide national pollutant discharge elimination system permit required as the result of a recent court decision.

2002 Regular Session

Chamber: HOUSE
Bill No.: 2SHB 2867
Description: FINAL
PASSAGE
Item No.: 9
Transcript No.: 35
Date: 02-17-2002

Yeas: 94 Nays: 00 Absent: 00 Excused:
04

Voting
yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballard, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Lysen, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven, Voloria, Wood, Woods, and Mr. Speaker

Excused: Representatives Ballasiotes, Edwards, Gombosky, Jarrett

2002 Regular Session

Chamber: SENATE
Bill No.: 2SHB 2867
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE
SENATE
Item No.: 42
Transcript No.: 54

Date: 03-08-2002

Yeas: 47 Nays: 00 Absent: 00 Excused:
02

Voting Senators Brown, Carlson, Costa, Deccio, Eide, Fairley, Finkbeiner,
yea: Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter,
Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-
Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette,
Poulsen, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan,
Sheldon, B., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West,
Winsley, Zarelli

Excused: Senators Benton, Sheldon, T.

2002 Regular Session

Chamber: SENATE
Bill No.: 2SHB 2867
Description: FINAL PASSAGE AS AMENDED BY THE
SENATE
Item No.: 10
Transcript 59
No.:
Date: 03-13-2002

Yeas: 47 Nays: 00 Absent: 01 Excused:
01

Voting Senators Benton, Carlson, Costa, Deccio, Eide, Fairley, Finkbeiner,
yea: Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter,
Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kohl-Welles,
Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Poulsen,
Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B.,
Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West,
Winsley, Zarelli

Absent: Senator Brown

Excused: Senator Kline

2002 Regular Session

Chamber: HOUSE
Bill No.: 2SHB 2867
Description: FINAL PASSAGE AS AMENDED BY THE
SENATE

Item No.: 16
Transcript No.: 59
Date: 03-13-2002

Yeas: 97 Nays: 00 Absent: 00 Excused:
01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballard, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Lysen, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, Schoesler, Schual-Berke, Sehlin, Simpson, Sommers, Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven, Veloria, Wood, Woods, and Mr. Speaker

Excused: Representative Skinner

SUBSTITUTE HOUSE BILL 2874

Authorizing the department of ecology to enter into agreements to allocate columbia basin project waters

PROGRAM / AGENCY IMPACTS

During the past fifty years, delivery of Columbia basin project water through canals and its application to land through irrigation has resulted in a dramatic rise in groundwater levels in the northern Pasco basin, located in western Franklin County north of the city of Pasco. The volume of groundwater in this area has increased by approximately five million acre-feet, primarily from percolation of irrigation water and seepage from the distribution system (canals).

SHB 2874 was developed by Ecology in cooperation with the United States and the Columbia basin irrigation districts. The bill authorizes Ecology to negotiate an agreement with the United States for allocation of groundwater that has accumulated in the 508-14 Area of the Columbia Basin Project. After an agreement has been negotiated, Ecology will develop and adopt an amended rule for implementing the agreement and for establishing priorities for processing applications for water rights. Ecology, in cooperation with the United States Bureau of Reclamation, will then establish a permitting program for allocation of the water.

Ecology is required to submit progress reports to the standing committee of the Legislature with jurisdiction over water resources. Annual reports must be submitted for five years, beginning December 1, 2002.

RESOURCE IMPACTS

The following resources will be employed by Ecology to implement SHB 2874:

1) Regional Management

The Water Resources Program section manager in the Eastern Regional Office will lead negotiations of the terms of the agreement with the federal government, and will offer direction and support during the rule-writing process.

2) Rule Writer

A rule writer from Headquarters will work closely with the Eastern Regional Office section manager and his technical staff to craft a revised rule for the area (Chapter 508-14 WAC).

3) Legal Support

An attorney from the Attorney General's Office will be needed to support development of both the agreement and rule.

4) Technical Unit Staff

Eastern Regional Office hydrogeologists will offer technical support to the section manager and rule writer during negotiations of the agreement and rule-writing phase of the project. They will work closely with permitting staff to make "permit" decisions regarding the allocation of water in the affected area, and they will be responsible for establishing a groundwater monitoring program designed to assess the impacts of groundwater withdrawal on groundwater and surface water in the Pasco Basin area.

5) Permitting and Compliance Staff

Eastern Region permitting staff will implement the final rule by preparing Reports of Examination and making decisions on applications for new water rights (within the framework of the license agreement identified in the rule) and implementing the revised rule on existing permits. It is anticipated that a combination permit writer/watermaster position will be established and located in the Pasco area after the final rule has been adopted. The permit writer/watermaster will be responsible for both permitting and compliance activities for the affected area.

6) Public Information Staff

A public information specialist and a meeting facilitator will be needed for interactions with the public during the public comment period of the rule-making process.

SHB 2874 authorizes Ecology to accept funds for expenses the Department incurs from negotiating the agreement with the federal government, and from writing, adopting, and implementing the final rule for the Pasco Basin area. Ecology plans to recover costs for the project through a contract negotiated with United States. Therefore, negative impacts on the agency budget are not expected at this time.

WORK PLAN

Projected Project Schedule

May 3, 2002 – September 1, 2002 - Negotiate Agreement with the USBR

September 1 – December 1, 2002 – Ecology to assist the USBR with consultation with NMFS, USBR leads in this effort

December 1, 2002 – Report to the Legislature on progress

December 1, 2002 – March 1, 2003 – Develop technical aspects of allocation program with USBR hydrogeologists and policy staff

March 1, 2003 – April 1, 2003 – File CR 101 to revise WAC 508-14

April 1, 2003 – June 1, 2003 – File CR 102 draft rule language

June 2003 – December 1, 2003 – Conduct public workshops, receive comments, develop final rule language

December 1, 2003 – Report to the Legislature on progress

December 1, 2003 – February 1, 2004 – Adopt revised rule and develop cost recovery contracts with USBR; hire watermaster for Pasco Basin

February 1, 2004 – Begin making permit decisions within Pasco Basin of WAC 508-14.

Tentative Hiring Plan

It is anticipated that one permitting/compliance position will need to be established after the final rule has been adopted. The new employee, who will probably be located in the Pasco area, will process water right changes and applications for new rights, and will serve as the watermaster of the Franklin County portion of Pasco Basin area. Funding for this position will be sought from the United States.

Contact Person:

Policy Lead: George Schlender, Section Manager, Water Resources Program, ERO
Phone: (509) 456-5057; Fax: (509) 456-6175; E-mail: gesc461@ecy.wa.gov

Technical Lead: Keith Stoffel, Technical Unit Supervisor, Water Resources Program, ERO; Phone: (509) 456-3176; FAX: (509) 456-6175;
E-mail: ksto461@ecy.wa.gov

FINAL BILL REPORT

SHB 2874

C 330 L 02

Synopsis as Enacted

Brief Description: Authorizing the department of ecology to enter into agreements to allocate Columbia basin project waters.

Sponsors: By House Committee on Agriculture & Ecology (originally sponsored by Representatives Schoesler and Grant).

House Committee on Agriculture & Ecology
Senate Committee on Environment, Energy & Water

Background:

The Columbia Basin Project of the U.S. Bureau of Reclamation receives its waters from Franklin D. Roosevelt Lake behind Grand Coulee Dam. The project is delivered water by way of Banks Lake and currently includes over 600,000 irrigated acres. The Department of Ecology (DOE) has entered into an agreement with the bureau and has adopted implementing rules for managing certain comingled ground waters associated with the project in the Quincy area. Under these rules, the DOE may issue water use permits, including those for using waters stored artificially by the bureau as part of the project.

Summary:

The DOE may enter into agreements with the United States for the allocation of ground waters resulting from the Columbia Basin Project. The agreements must be consistent with authorized purposes of the project, federal and state reclamation laws, and federal rate and repayment contract obligations regarding the project. The agreements must provide that the DOE grant an application to use the water only if it determines that the application will not impair existing water rights or project operations, or harm the public interest. Use of any water allocated under the agreements must be contingent upon the issuance of licenses by the United States to approved applicants.

Before implementing the agreements, the DOE, with the concurrence of the United States, must adopt rules establishing the procedures for implementing the agreements and the priorities for processing applications. The DOE may accept funds to cover any administrative and staff expenses that it incurs in connection

with such an agreement. The DOE must report to the Legislature annually until December 1, 2007, on this subject.

Votes on Final Passage:

House	98	0	
Senate	46	2	(Senate amended)
House	96	0	(House concurred)

Effective: June 13, 2002

Roll Calls on a Bill: 2874 (2001-02)

Brief
Description: Authorizing the department of ecology to enter into agreements to allocate Columbia basin project waters.

2002 Regular Session

Chamber: HOUSE
Bill No.: SHB 2874
Description: FINAL
PASSAGE
Item No.: 66
Transcript No.: 32
Date: 02-14-2002

Yeas: 98 Nays: 00 Absent: 00 Excused: 00

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballard, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Lysen, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven, Veloria, Wood, Woods, and Mr. Speaker

2002 Regular Session

Chamber: SENATE
Bill No.: SHB 2874
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE SENATE
Item No.: 3
Transcript No.: 54
Date: 03-08-2002

Yeas: 46 Nays: 02 Absent: 00 Excused:
01

Voting Senators Benton, Brown, Carlson, Costa, Deccio, Eide, Finkbeiner,
yea: Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter,
Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-
Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette,
Poulsen, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan,
Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Swecker, West, Winsley,
Zarelli

Voting Senators Fairley, Thibaudeau
nay:

Excused: Senator Stevens

2002 Regular Session

Chamber: HOUSE
Bill No.: SHB 2874
Description: FINAL PASSAGE AS AMENDED BY THE
SENATE
Item No.: 34
Transcript No.: 57
Date: 03-11-2002

Yeas: 96 Nays: 00 Absent: 00 Excused:
02

Voting Representatives Ahern, Alexander, Anderson, Armstrong, Ballard,
yea: Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes,
Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway,
Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn,
Dunshee, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold,
Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst,
Jackley, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick,
Lysen, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell,
Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson,
Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos,
Schindler, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers,
Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven, Veloria, Wood,
Woods, and Mr. Speaker

Excused: Representatives Lisk, Schmidt

ENGROSSED HOUSE BILL 2993

Modifying water provisions

PROGRAM / AGENCY IMPACTS

The bill provides several new or improved tools for completing and implementing local watershed plans and secures several important steps forward for improved water management in Washington. With regard to the Department of Ecology it:

- Directs the Department to seek voluntary compliance with water laws by providing information and technical assistance to water users. Where impairment or harm is occurring, requires the Department to secure compliance by formal means where voluntary compliance is not achieved. Directs the Agency to station compliance personnel within the watershed communities they serve and to the extent practicable distribute them evenly throughout the state.
- Allows the reuse of industrial process water to enhance water supplies for nonpotable uses. Authorizes execution of an agreement between the Departments of Health and Ecology to allow Ecology to issue reclaimed water permits for industrial and commercial use and to establish and collect fees. Exempts industrial and commercial water reclamation and use from state water right requirements.
- Expands the state's trust water rights program by providing additional opportunities to secure water for fish through donation, lease or purchase. Creates simpler and safer means for water right holders to preserve their water right by temporarily donating it in the trust water rights program. Where a water right is acquired or donated to the program to assist in achieving established instream flows, the Department is directed to process the change or amendment of the existing water right without conducting a review of the extent and validity of the portion of the water right that will remain with the water right holder.
- Simplifies permitting for water storage projects by combining storage and use permit applications. Requires the Department to expedite processing applications for storage proposals 1) where the storage facility will not require a new water right for diverting or withdrawing the water intended to be stored, 2) if adding or changing one or more purposes of use of stored water, 3) if adding to the capacity of an existing storage facility, and 4) for secondary permits to secure use from existing storage facilities. Clarifies that a secondary permit is not needed where the water right for the source of stored

water authorizes the beneficial use. The Department may authorize reservoirs to be filled more than once per season of use.

RESOURCE IMPACTS

Implementation of Compliance Provisions

1. The compliance provisions do not represent a significant departure from current practice to pursue softer measures initially regarding violations, then incrementally ramp up the level of seriousness of possible sanctions until compliance is achieved. However, Ecology will incorporate the requirements of the statute into a policy guidance manual that will be prepared by the Department's Water Resources Program.
2. Regarding assignment and distribution of watermasters and other compliance personnel, it is Ecology's practice and intention to remotely locate watermasters in their assigned watersheds whenever possible. Presently only one compliance position (a statewide coordinator) is located in the Headquarters Office. The remaining five staff are assigned to one or more watersheds. Three of those staff are remotely located away from the regional office. The other two have offices in the regional office but work in a number of watersheds from time to time. Should Ecology secure additional compliance funding in the future, it intends to add more watermasters dedicated to key watersheds around the state.
3. No additional resources or staffing were provided, nor is any required to implement the policy guidance provided by these provisions. No new revenue is anticipated to be generated.

Implementation of Industrial Reuse Provisions

- I. No guidance exists nationally regarding standards for industrial reuse. Projects are likely to be case specific given the wide range of industries and potential uses. The Department will review proposed projects on a case-by-case basis and see how it evolves. If appropriate groupings develop the department may be able to address them with industry group standards and guidance as future resources allow.
- II. Ecology will continue to issue permits through its regional offices. Permits will be based on requirements for protection of public health and the environment using technology-based treatment requirements and the three water quality standards already in place - Surface Water Quality Standards, Groundwater Quality Standards, Water Reclamation and Reuse Standards. The expansion of reclaimed water program to include industrial reclaimed

water is not likely to create a greater permit workload than otherwise because those facilities require a discharge permit whether they reclaim water or not.

- III. The Department will continue to coordinate with the Department of Health regarding the departments' respective roles. The existing memorandum of agreement does not need any amendments to implement the bill. Within Ecology the Water Quality Program and the Water Resources Program will continue to coordinate on water rights issues. Water Quality and the Industrial Section will coordinate regarding large water-using industries.
- IV. Expansion of the reclaimed water to include industrial and commercial reclaimed water is unlikely to generate additional revenue through the collection of permit fees relating to those projects. The facilities that would generate reclaimed water would otherwise require a discharge permit and pay permit fees for that permit.

Implementation of Trust Water Right Provisions

- 1. Ecology will update its trust water right guidelines to reflect these and many other statutory changes made to the trust water rights laws during the past decade.
- 2. Ecology's water resources internal policy team will also discuss these changes and disseminate information to all relevant staff regarding the changes.
- 3. The changes to the statute may marginally increase the number of trust water right donations, thus affecting the processing workload, but this is not expected to be significant. No new revenues are anticipated to be generated.

Implementation of Water Storage Provisions

- 1. Ecology will modify its current priorities for water rights processing to include the high priority the act places on the processing of certain water storage applications. This information, as well as the policy changes brought by the act will be disseminated to the regional offices where water rights are processed.
- 2. Ecology does not plan to adopt a rule reflecting these new requirements. However any future potential rule-making regarding water rights or development of internal guidance will include the priorities established by these provisions.
- 3. No significant additional workload or fee revenues are expected to be incurred as a consequence of these provisions. Storage applications are relatively rare overall.

WORK PLAN

Compliance Provisions

May 31, 2002 - Disseminate information to compliance staff regarding statutory changes.

June 1, 2002 - Initiate work on water resources compliance manual.

December 31, 2002 – Complete water resources compliance manual.

No hiring is planned.

Contact person: Darlene Treece – Water Resources Program, Compliance Coordinator; Phone: (360) 407-7255; E-mail: dtre461@ecy.wa.gov

Industrial and Commercial Reuse Provisions

June 1, 2002 – Begin processing any permit applications

No hiring is planned.

Contact person: Kathy Cupps – Water Quality Program, Reclaimed Water Coordinator; Phone: (360) 407-6452; E-mail: kcup461@ecy.wa.gov

Trust Water Right Provisions

May 31, 2002 - Disseminate information to permitting and trust water staff regarding statutory changes.

June 1, 2002 - Initiate work on trust water rights guidelines update.

December 31, 2002 – Complete trust water rights guidelines update.

No hiring is planned.

Contact person: Peggy Clifford – Water Resources Program, Trust Water Right Coordinator; Phone: (360) 407-7262; E-mail: pcli461@ecy.wa.gov

Water Storage Provisions

May 31, 2002 - Disseminate information to permitting staff regarding statutory changes.

Contact person: Ken Slattery – Water Resources Program, Senior Policy Analyst; Phone: (360) 407-6603; E-mail: kshw461@ecy.wa.gov

FINAL BILL REPORT

EHB 2993

C 329 L 02
Synopsis as Enacted

Brief Description: Modifying water provisions.

Sponsors: By Representatives Linville and Kirby.

House Committee on Agriculture & Ecology

Background:

Watershed Planning. State law establishes procedures and policies for initiating watershed planning at the local level.

Reclaimed Water. A permit may be secured for the use of reclaimed water by the generator of the reclaimed water. The generator of the reclaimed water may distribute the water according to the terms of the permit. The permit governs the location, rate, water quality, and purpose of use of the reclaimed water.

Trust Water Rights. A water right may be donated to or acquired by the state for management as a trust water right. The laws governing the state's trust water rights system are divided into two parts: one for the Yakima River Basin; and the other for the rest of the state. In 2001 an expedited process was established for donating water rights to either system. This process applies if: (1) an aquatic species is listed as threatened, endangered, or depressed under state or federal law; and (2) the holder of a right to water from the body of water chooses to donate all or a portion of the person's water right to the trust water system to assist in providing instream flows on a temporary or permanent basis. An expedited process was also established for the Department of Ecology (DOE) to lease water rights and place them in the trust system during droughts.

Under the expedited process for such a donation, neither the right donated nor the sum of the portion of a right remaining with the person plus the portion donated may exceed the extent to which the right was exercised during the last five years. Once accepted, the rights are trust water rights within the conditions prescribed by the donor that are relevant and material to protecting the donor's interest in the water right and that satisfy the requirements of the trust water laws. The acceptance of the right as trust water right is not evidence of the validity or quantity of the right. Similar provisions were established for the leases by the DOE of water rights in areas covered by drought orders.

The requirement that the DOE examine a water right for potential impairment of existing water rights before a trust water right may be exercised is waived for such a donated right. It is also waived for or a drought-lease of five or less years. However, if the DOE subsequently finds that the donated or drought-leased right impairs existing water rights, the resulting trust right must be altered to eliminate the impairment. Current requirements that notice be published before a trust water right is exercised apply only for the first time such a donation or drought lease right is exercised as a trust water right.

Conservation Reserve Program. Federal law authorizes the enrollment of lands in a conservation reserve program to assist landowners to conserve and improve soil and water resources.

The Public Works Board is authorized to make low-interest or interest-free loans to finance the repair, replacement, or improvement of public works systems.

Summary:

The objectives of local water management strategies that meet certain water needs are identified. The objectives are to provide sufficient water for: residential, commercial, and industrial needs; productive fish populations; and productive agriculture.

Compliance. The DOE must achieve compliance with the state's water laws and rules. Compliance is to be achieved through a network of water masters, stream patrollers, and other compliance staff to the extent funding is provided for the network. To the extent practicable, compliance personnel shall be distributed evenly among the regions of the state. A sequence is established for providing compliance which ranges from providing technical and educational information to issuing orders for violations. To the maximum extent practicable, the DOE is to station its compliance personnel in the watershed communities they serve.

Reclaimed Water. The state's reclaimed water laws are amended. Permits for the use of "industrial reuse water" are authorized. Such a permit is issued by the DOE under the water pollution control laws to the owner of a plant that is the source of the water who may then distribute the water. The owner has the exclusive right to the use of the reclaimed water; however, use of the water must not impair existing water rights or, if the source of the water is surface water, rights that are downstream from the plant's current discharge point. The Department of Health may implement its permit requirements through an agreement with the DOE.

Trust Water Rights. The expedited procedures are broadened for donating water rights to the trust water rights systems and for leasing water rights. The procedures now apply to any donation of a water right to assist in providing

instream flows on a temporary or permanent basis and to any lease by the DOE. For other donations, if a portion of a water right that is acquired or donated will assist in achieving established instream flows, the DOE must also provide expedited processing of the transfer of the right to the trust system.

Reservoir and Secondary Permits. Expedited processing of reservoir and secondary permit applications is to be provided for: developing storage facilities that will not require a new water right for diversion or withdrawal of the water to be stored; adding or changing one or more purposes of use of stored water; or adding to the storage capacity of an existing storage facility. The expedited processing is also to be afforded to applications for secondary permits for the use of water from existing storage facilities. A person may apply for a reservoir permit and a secondary permit in one application. A secondary permit is not required for the use of stored water if the water right for the source of the stored water authorizes the use. The DOE may authorize reservoirs to be filled more than once per year or season under certain circumstances.

Water Conservation Account. The Water Conservation Account is created in the custody of the state treasurer. Expenditures from the account are for the development and support of water conservation eligible under the federal conservation reserve program.

All receipts from federal funding dedicated to water conservation under the federal conservation reserve program are to be deposited in the account. The Legislature may also appropriate money to the account. The account is subject to allotment procedures, but an appropriation is not required for expenditures. Only the Public Works Board or its designee may make expenditures from the account.

Votes on Final Passage:

House	95 0
Senate	46 2

Effective: June 13, 2002
April 3, 2002 (Section 11)

Roll Calls on a Bill: 2993 (2001-02)

Brief
Description: Modifying water provisions.

2002 Regular Session

Chamber: HOUSE
Bill No.: EHB 2993
Description: FINAL
PASSAGE
Item No.: 6
Transcript
No.: 59
Date: 03-13-2002

Yeas: 95 Nays: 00 Absent: 00 Excused:
03

Voting
yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballard,
Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell,
Casada, Chandler, Chase, Clements, Cody, Conway, Cooper, Cox,
Crouse, Darneille, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edwards,
Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh,
Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett, Kagi, Kenney,
Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Lysen, Mastin, McDermott,
McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken,
Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Reardon,
Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt,
Schoesler, Schual-Berke, Sehlin, Simpson, Sommers, Sullivan, Sump,
Talcott, Tokuda, Upthegrove, Van Luven, Voloria, Wood, Woods, and Mr.
Speaker

Excused: Representatives Ballasiotes, DeBolt, Skinner

2002 Regular Session

Chamber: SENATE
Bill No.: EHB 2993
Description: 3RD READING & FINAL
PASSAGE
Item No.: 47
Transcript
No.: 59
Date: 03-13-2002

Yeas: 46 Nays: 02 Absent: 00 Excused:
01

Voting Senators Benton, Brown, Carlson, Costa, Deccio, Eide, Fairley,
yea: Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt,
 Hochstatter, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-
 Welles, Long, McAuliffe, McDonald, Morton, Oke, Poulsen, Prentice,
 Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T.,
 Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley,
 Zarelli

Voting Senators Honeyford, Parlette
nay:

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL 5841

Establishing a new schedule for review of comprehensive plans and development regulations adopted under the growth management act

PROGRAM / AGENCY IMPACTS

Section 1 of SSB 5841 extends the deadline of September 1, 2002 for a county and city to review and, if needed, revise its comprehensive land use plan and development regulations. The legislation requires the Office of Community Development to establish a schedule for the review to be completed on or before the following legislatively set dates:

- December 1, 2004, and every seven years after, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties.
- December 1, 2005, and every seven years after, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and cities within those counties.
- December 1, 2006, and every seven years after, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and cities within those counties.
- December 1, 2007, and every seven years after, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and cities within those counties.

The extension was broadly supported by local governments, state agencies, including Ecology and various interests. With more time and a staggered schedule the review and update of the plans and regulations will be done thoroughly and accurately.

In addition Ecology and other state agencies, as encouraged by the Act, will be able to provide technical assistance to jurisdictions in the review of critical areas ordinances, comprehensive plans and development regulation.

As required by the Act only counties and cities in compliance with the schedule will receive grants and loans from the Centennial Clean Water Fund, and only those jurisdictions in compliance will receive preferences for grants or loans to finance public facilities.

RESOURCE IMPACTS

No resources were provided, and none are needed. Local governments and state agencies were largely unprepared to meet the September 1, 2002 deadline. The legislative extension and the staggered schedule will enable Ecology to provide, where and when needed, technical assistance, and assist local governments with the review of comprehensive plans and regulations within the new timelines.

WORK PLAN

Ecology is working with the Office of Community Development and other state agencies to produce technical documents and model ordinances for use by local jurisdictions. Draft model ordinance for designating and protecting critical areas has been produced. It will be presented to local governments in May 2002 with the final scheduled for June 2002.

Various programs within Ecology will identify and produce, if needed, technical documents to help local jurisdictions address issues such as protection of water quality and quantity, redevelopment of hazardous sites, siting sewage treatment facilities, landfills, stormwater management facilities, and solid waste handling facilities.

Contact person: Hedia Adelsman – Shoreland Environmental Assistance Program
Phone: (360) 407-6222; E-mail: hade461@ecy.wa.gov

FINAL BILL REPORT

SSB 5841

C 320 L 02

Synopsis as Enacted

Brief Description: Establishing a schedule for review of comprehensive plans and development regulations adopted under the growth management act.

Sponsors: Senate Committee on State & Local Government (originally sponsored by Senators Patterson, McCaslin, Gardner, Sheahan, T. Sheldon, Deccio, Haugen, Winsley and Hochstatter).

Senate Committee on State & Local Government
House Committee on Local Government & Housing

Background: Each county or city planning under the Growth Management Act (GMA) that has adopted a comprehensive land use plan must review its plan and development regulations by September 1, 2002, and every five years thereafter. Every ten years a county or city must review its urban growth boundaries. These two reviews may be combined.

Summary: The Department of Community, Trade, and Economic Development (CTED) must establish a schedule for counties and cities to review and, if needed, revise their comprehensive plans and development regulations. Counties and cities not planning under the Growth Management Act must use this schedule to review and revise policies and regulations regarding critical areas and natural resource lands. The review and evaluation must include consideration of critical area ordinances and, if planning under the GMA, an analysis of the population allocation determined by the most recent 10-year forecast by OFM. The schedule must provide for reviews and evaluations as follows:

- (a) By December 1, 2004, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties, and the cities within those counties. If any of these counties or their cities has conducted a review and evaluation of its comprehensive plan and development regulations and, on or after January 1, 2001, has taken action in response to this review, it shall be deemed to have conducted the first review required by this act. Subsequent review and evaluation by such county or city must be conducted in accordance with the established time periods;
- (b) By December 1, 2005, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

- (c) By December 1, 2006, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and
- (d) By December 1, 2007, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

Counties and cities may begin this process early and may be eligible for grants from CTED, subject to available funding, if they elect to do so.

Noncompliance with this schedule eliminates eligibility for various loans, grants, and preferences.

Votes on Final Passage:

Senate	33	13	
House	92	0	(House amended)
Senate	38	7	(Senate concurred)

Effective: June 13, 2002

Roll Calls on a Bill: 5841 (2001-02)

Brief Establishing a schedule for review of comprehensive plans and
Description: development regulations adopted under the growth management act.

2001 2nd Special Session

Chamber: SENATE
Bill No.: SSB 5841
Description: 3RD READING & FINAL
 PASSAGE
Item No.: 6
Transcript 18
No.:
Date: 06-21-2001

Yeas: 35 Nays: 03 Absent: 00 Excused:
11

Voting Senators Brown, Carlson, Constantine, Costa, Eide, Fairley, Finkbeiner,
yea: Franklin, Fraser, Gardner, Haugen, Hochstatter, Jacobsen, Johnson,
 Kastama, Long, McAuliffe, Morton, Oke, Parlette, Patterson, Prentice,
 Rasmussen, Regala, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin,
 Snyder, Spanel, Swecker, West, Winsley, Zarelli

Voting Senators Kline, Kohl-Welles, Thibaudeau
nay:

Excused: Senators Benton, Deccio, Hale, Hargrove, Hewitt, Honeyford, Horn,
 McCaslin, McDonald, Roach, Stevens

2002 Regular Session

Chamber: SENATE
Bill No.: SSB 5841
Description: 3RD READING & FINAL
 PASSAGE
Item No.: 8
Transcript 24
No.:
Date: 02-06-2002

Yeas: 33 Nays: 13 Absent: 00 Excused:
03

Voting Senators Brown, Carlson, Costa, Deccio, Eide, Fairley, Finkbeiner,

yea: Franklin, Fraser, Gardner, Hargrove, Haugen, Horn, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Oke, Parlette, Poulsen, Prentice, Rasmussen, Regala, Shin, Snyder, Spanel, Thibaudeau, Winsley
Voting Senators Hale, Hewitt, Hochstatter, Honeyford, Morton, Roach, Rossi,
nay: Sheahan, Sheldon, T., Stevens, Swecker, West, Zarelli
Excused: Senators Benton, Johnson, Sheldon, B.

2002 Regular Session

Chamber: HOUSE
Bill No.: SSB 5841
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE
Item No.: 4
Transcript No.: 52
Date: 03-06-2002

Yeas: 92 Nays: 00 Absent: 00 Excused: 06

Voting Representatives Ahern, Alexander, Anderson, Armstrong, Ballard,
yea: Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett, Kagi, Kenney, Kirby, Lantz, Linville, Lisk, Lovick, Mastin, McDermott, McIntire, Mielke, Mitchell, Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven, Veloria, Wood, Woods, and Mr. Speaker

Excused: Representatives Casada, Kessler, Lysen, McMorris, Miloscia, Schmidt

2002 Regular Session

Chamber: SENATE
Bill No.: SSB 5841
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE

Item No.: 7
Transcript No.: 58
Date: 03-12-2002

Yeas: 38 Nays: 07 Absent: 01 Excused:
03

Voting yeas: Senators Benton, Brown, Carlson, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, Oke, Prentice, Rasmussen, Regala, Rossi, Sheahan, Sheldon, B., Snyder, Spanel, Thibaudeau, West, Winsley, Zarelli

Voting nays: Senators Hochstatter, Johnson, McDonald, Morton, Roach, Sheldon, T., Stevens

Absent: Senator Shin

Excused: Senators Parlette, Poulsen, Swecker

ENGROSSED SUBSTITUTE SENATE BILL 6060

Updating references for purposes of the hazardous substances tax

PROGRAM / AGENCY IMPACTS

This bill updates references to the federal acts. Taxable hazardous substances under the Federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) are updated to reflect the hazardous substances under the Act as of March 1, 2002. Excepted are non-compound metals in solid form in a particle larger than 100 micrometers in diameter. Taxable pesticides required to be registered are limited to those required to be registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended on August 3, 1996.

There are no agency impacts. The amendment is not expected to have a revenue impact on Ecology. The amendment does not alter the requirements and/or expectations of Ecology. As administrator of the hazardous substance tax, the Department of Revenue (DOR) is responsible for implementing the amendments. Ecology does provide limited technical assistance to the DOR and taxpayers related to the identification of taxable substances and products. That role will not change.

RESOURCE IMPACTS

No additional revenue or resources are required to implement the amendments and none were provided in the amendments.

WORK PLAN

To implement the amendments, Ecology is providing technical assistance to the Department of Revenue with respect to the development of a revised list of CERCLA hazardous substances.

Note that the rule implementing the hazardous substance tax (WAC 458-20-252) must be amended by the Department of Revenue (DOR). The DOR had already planned to amend the regulation and has already filed a CR-101.

The effective date of the bill is July 1, 2002.

Contact person: Anne Solwick – Department of Revenue; Phone: (360) 570-6129;
E-mail: annes@dor.wa.gov

Michael Feldcamp – Department of Ecology, Toxics Cleanup Program; Phone:
(360) 407-7531; E-mail: mfel461@ecy.wa.gov

FINAL BILL REPORT

ESSB 6060

C 105 L 02
Synopsis as Enacted

Brief Description: Updating references for purposes of the hazardous substances tax.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Fraser; by request of Department of Revenue).

Senate Committee on Ways & Means
House Committee on Finance

Background: A state tax is imposed on the first possession of a hazardous substance in this state. The rate of tax is 0.7 percent of the wholesale value. Proceeds of the tax are deposited 47.1 percent into the state toxics control account and 52.9 percent into the local toxics control account.

Taxable hazardous substances include:

- (1) Hazardous substances under the Federal Comprehensive Environmental Response, Compensation, and Liability Act as of March 1, 1989;
- (2) Petroleum products; and
- (3) Pesticides required to be registered under the Federal Insecticide, Fungicide and Rodenticide Act.

Summary: References to the federal acts are updated. Taxable hazardous substances under the Federal Comprehensive Environmental Response, Compensation, and Liability Act are updated to reflect the hazardous substances under the act as of March 1, 2002. Excepted are non-compound metals in solid form in a particle larger than 100 micrometers in diameter. Taxable pesticides required to be registered are limited to those required to be registered as of August 3, 1996, the last date the act was amended.

Votes on Final Passage:

Senate	47 0
House	96 0

Effective: July 1, 2002

Roll Calls on a Bill: 6060 (2001-02)

Brief Updating references for purposes of the hazardous substance tax.
Description: **Revised for 1st Substitute:** Updating references for purposes of
 the hazardous substances tax.

2002 Regular Session

Chamber: SENATE
Bill No.: ESSB 6060
Description: 3RD READING & FINAL
 PASSAGE
Item No.: 48
Transcript 33
No.:
Date: 02-15-2002

Yeas: 47 Nays: 00 Absent: 01 Excused:
01

Voting Senators Benton, Brown, Carlson, Costa, Deccio, Eide, Fairley,
yea: Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt,
 Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-
 Welles, Long, McAuliffe, McDonald, Morton, Oke, Parlette, Poulsen,
 Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B.,
 Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West,
 Winsley, Zarelli

Absent: Senator Hochstatter

Excused: Senator McCaslin

2002 Regular Session

Chamber: HOUSE
Bill No.: ESSB 6060
Description: FINAL
 PASSAGE
Item No.: 13
Transcript 54
No.:
Date: 03-08-2002

Yeas: 96 Nays: 00 Absent: 00 Excused:
02

Voting
yea: Representatives Ahern, Alexander, Anderson, Ballard, Ballasiotes,
Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell,
Casada, Chandler, Chase, Clements, Cody, Conway, Cooper, Cox,
Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee,
Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky,
Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett,
Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Lysen, Mastin,
McDermott, McIntire, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken,
Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Reardon,
Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt,
Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan,
Sump, Talcott, Tokuda, Upthegrove, Van Luven, Veloria, Wood, Woods,
and Mr. Speaker

Excused: Representatives Armstrong, McMorris

SUBSTITUTE SENATE BILL 6329

Exempting certain hybrid vehicles from emission control inspection requirements

PROGRAM / AGENCY IMPACTS

SSB 6329 exempts vehicles powered by a combination of a gasoline engine and electric motor, known as hybrid motor vehicles, from biennial emission tests if they obtain a fuel efficiency rating by the US Environmental Protection Agency of at least 50 MPG during city driving. Today only two vehicle models, one introduced in 2000 and the other in 2001, meet this definition. Because emission tests do not start until a vehicle reaches five years of age, the first exemptions from testing requirements will start in 2005.

To accommodate this change, Ecology will need to modify its emission test rule and provide notification of the change to the Department of Licensing, automobile dealers, the emission test contractor and the public residing within emission test areas.

RESOURCE IMPACTS

No resources were provided by the Legislature to implement SSB 6329. Ecology was already embarking on emission testing rule changes and public outreach efforts as a result of selection of a new test contractor and planned modifications to the testing procedures. Additional changes necessitated by SSB 6329 will be incorporated into these on-going efforts.

When hybrid vehicle testing exemptions begin in 2005, the State General Fund will experience small reductions in revenue due to the loss of emission test fees. The losses are estimated at less than \$10,000 per year in 2005 but rising to 3 or 4 times that toward the end of the decade.

WORK PLAN

Notify DOL and Test Contractor of Law Changes	Spring 2002
Initiate Rule Changes	Spring 2002
Complete Rule Changes	Summer 2002
Verify License Renewal Program Modifications with DOL	Summer 2004
Initiate Outreach to the Public	Winter 2004

Contact person: Stu Clark – Air Quality Program
Phone: (360) 407-6873; E-mail: scla461@ecy.wa.gov

FINAL BILL REPORT

SSB 6329

C 24 L 02

Synopsis as Enacted

Brief Description: Exempting certain hybrid vehicles from emission control inspection requirements.

Sponsors: Senate Committee on Environment, Energy & Water (originally sponsored by Senators Regala, Honeyford, Fraser, Jacobsen and Winsley).

Senate Committee on Environment, Energy & Water
House Committee on Agriculture & Ecology

Background: Federal law requires vehicle emission testing in areas that violated carbon monoxide or ozone air quality standards. Testing is required in the urban portions of Clark, King, Pierce, Snohomish and Spokane counties. The Department of Ecology runs the motor vehicle emission inspection program and contracts with private entities to operate the vehicle inspection stations.

Certain motor vehicles are exempt from the emission testing requirement. Exempt vehicles include: vehicles more than 25 or less than five years old; vehicles powered by propane or compressed natural gas or electricity; motorcycles; farm vehicles; used vehicles sold by dealers; and collector cars.

A hybrid motor vehicle is one that uses propulsion units powered by both electricity and gas. It is suggested that certain hybrid vehicles should be exempt from emission testing.

Summary: Hybrid motor vehicles that obtain a rating by the U.S. Environmental Protection Agency of at least 50 miles per gallon during city driving are exempt from vehicle emission testing.

Votes on Final Passage:

Senate	47 0
House	96 0

Effective: June 13, 2002

Roll Calls on a Bill: 6329 (2001-02)

Brief Description: Exempting certain vehicles powered by electricity and gasoline from emission control inspections.
Revised for 1st Substitute: Exempting certain hybrid vehicles from emission control inspection requirements.

2002 Regular Session

Chamber: SENATE
Bill No.: SSB 6329
Description: 3RD READING & FINAL
PASSAGE
Item No.: 10
Transcript No.: 34
Date: 02-16-2002

Yeas: 47 Nays: 00 Absent: 00 Excused:
02

Voting yea: Senators Benton, Carlson, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

Excused: Senators Brown, Poulsen

2002 Regular Session

Chamber: HOUSE
Bill No.: SSB 6329
Description: FINAL
PASSAGE
Item No.: 38
Transcript No.: 51
Date: 03-05-2002

Yeas: 96 Nays: 00 Absent: 00 Excused:
02

Voting Representatives Ahern, Anderson, Ballard, Ballasiotes, Barlean, Benson,

yea: Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Lysen, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven, Voloria, Wood, Woods, and Mr. Speaker

Excused: Representatives Alexander, Armstrong

SUBSTITUTE SENATE BILL 6553

Enhancing regulatory capabilities to prevent invasive aquatic species

PROGRAM / AGENCY IMPACTS

This bill increases public awareness of invasive aquatic species and enhances the Department of Fish and Wildlife's (WDFW) regulatory capability to address threats posed by these species. The bill will support Ecology's ongoing efforts to reduce the presence and/or spreading of invasive aquatic species through our participation on the Aquatic Nuisance Species Committee and our authority under the Freshwater Aquatic Weeds Program (Chapter 43.21A.660). The bill enhances Ecology's ability to educate and warn the public about invasive aquatic species and to assist the State's planning efforts to prevent and respond to the introduction of such species.

The bill directs Ecology to

- Consult with WDFW about which state waters contain invasive aquatic plant species;
- Post signs (in conjunction with WDFW and Parks) at water bodies that are infested with prohibited aquatic animal species or with invasive plant species;
- Place educational signs at uninfested sites; and
- As member of the Aquatic Nuisance Species Committee create a rapid response plan that describes actions to be taken when a prohibited aquatic animal species is found to be infesting a water body.

RESOURCE IMPACTS

Ecology, under current law, is already supporting the efforts described in this bill so there is no additional fiscal or resource impact to Ecology.

WORK PLAN

Projected timeline to accomplish requirements of the bill.

- Ecology has provided WDFW with a list of state waters infested with invasive weeds;
- The signs are designed, printed, and being installed; and
- Ecology has two staff on the Aquatic Nuisance Species Committee.

No hiring is needed to implement this bill.

Contact person: Kathy Hamel – Water Quality Program
Phone: (360) 407-6562; E-mail: kham461@ecy.wa.gov

FINAL BILL REPORT

SSB 6553

C 281 L 02
Synopsis as Enacted

Brief Description: Enhancing regulatory capabilities to prevent invasive aquatic species.

Sponsors: Senate Committee on Natural Resources, Parks & Shorelines (originally sponsored by Senators Poulsen, Oke and Regala; by request of Governor Locke).

Senate Committee on Natural Resources, Parks & Shorelines
House Committee on Natural Resources

Background: The Washington State Legislature created the Invasive Aquatic Species Act in order to give the Department of Fish and Wildlife and other state agencies the authority to control the introduction of invasive aquatic species that damage the native environment.

Summary: The Legislature recognizes that the potential economic and environmental damage that can occur from the introduction of the invasive aquatic species is serious and increased public awareness of invasive aquatic species is a benefit to the state.

The director of the Department of Fish and Wildlife must create a rapid response plan in cooperation with the Aquatic Nuisance Species Committee and the other state agencies involved in invasive species management. The director of the Department of Fish and Wildlife and the Chief of the State Patrol must jointly develop a plan to inspect watercraft entering the state to prevent the introduction of invasive aquatic species. The plan must be provided to the Legislature by December 2003. The Fish and Wildlife Commission is given authority to classify nonnative aquatic animal species in various categories related to their danger to the environment. The commission is given the authority to designate by rule state waters that are infested if the director of the Department of Fish and Wildlife determines that the waters contain a prohibited aquatic animal species.

The Fish and Wildlife Commission will designate commercial shellfish species as regulated aquatic species. The commission will develop a work plan to eradicate native aquatic species that threaten human health. Plant and non-native animal species that threaten or harm human health and native plant species that displace other species, threaten natural resources or cause economic harm can be classified as an "invasive specie." Invasive species is defined to match the federal definition.

Persons may not possess, import, purchase, sell, propagate, or transport prohibited aquatic animal species in the state. Exceptions are allowed for identifying a species or reporting the presence of a species, for possessing a prohibited species while in the process of removing it from watercraft or equipment in the manner specified by the department, or to take the species and return it to the water from which it came. A gross misdemeanor penalty is established.

Ballast water is excluded from the act.

Votes on Final Passage:

Senate	46	0	
House	93	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: June 13, 2002

Roll Calls on a Bill: 6553 (2001-02)

Brief Description: Enhancing regulatory capabilities to prevent invasive aquatic species.

2002 Regular Session

Chamber: SENATE
Bill No.: SSB 6553
Description: 3RD READING & FINAL
PASSAGE
Item No.: 14
Transcript No.: 33
Date: 02-15-2002

Yeas: 46 Nays: 00 Absent: 00 Excused:
03

Voting yea: Senators Benton, Carlson, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Parlette, Poulsen, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Swecker, Thibaudeau, West, Winsley, Zarelli

Excused: Senators Brown, Johnson, Stevens

2002 Regular Session

Chamber: HOUSE
Bill No.: SSB 6553
Description: FINAL PASSAGE AS AMENDED BY THE
HOUSE
Item No.: 41
Transcript No.: 52
Date: 03-06-2002

Yeas: 93 Nays: 00 Absent: 00 Excused:
05

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Ballard, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Cody, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn,

Dunshee, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Mastin, McDermott, McIntire, Mielke, Mitchell, Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven, Voloria, Wood, Woods, and Mr. Speaker

Excused: Representatives Casada, Edwards, Lysen, McMorris, Miloscia

2002 Regular Session

Chamber: SENATE
Bill No.: SSB 6553
Description: FINAL PASSAGE AS AMENDED BY THE HOUSE
Item No.: 10
Transcript No.: 58
Date: 03-12-2002

Yeas: 43 Nays: 00 Absent: 01 Excused: 05

Voting yea: Senators Benton, Carlson, Costa, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Long, McAuliffe, McCaslin, McDonald, Morton, Oke, Poulsen, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, West, Winsley, Zarelli

Absent: Senator Brown

Excused: Senators Deccio, Kohl-Welles, Parlette, Swecker, Thibaudeau

SENATE BILL 6609

Modifying the manner in which the department of ecology conducts studies

PROGRAM/AGENCY IMPACTS

This bill establishes new requirements in state law for Ecology studies dealing with water cleanup plans, or Total Maximum Daily Loads (TMDLs). The requirements include: (1) meaningful public participation and involvement opportunities for watershed planning groups, local governments and other affected citizens; (2) establishment of a dispute resolution process; and (3) disclosure of the precision and accuracy of the data collected, computer models developed, and assumptions used.

RESOURCE IMPACTS

There are no new funds appropriated or revenues associated with this bill. However, the resources needed to implement the bill are estimated to be small to moderate and can be provided within existing agency resources.

WORK PLAN

Ecology will revise and expand our guidance for the development of TMDLs to address all three elements in the bill. We will ensure that opportunities for meaningful public participation are included at all important phases of the TMDL studies. We will establish a dispute resolution process by agency policy. We will ensure that the technical studies disclose the assumptions used, computer models developed and the precision and accuracy of the data collected for the studies.

Ecology will involve external parties as we develop the revised guidance and agency policy. They will be completed by September 1, 2002.

Contact person: Dave Peeler – Water Quality Program
Phone: (360) 407-6489; E-mail: dpee461@ecy.wa.gov

FINAL BILL REPORT

SB 6609

PARTIAL VETO

C 364 L 02

Synopsis as Enacted

Brief Description: Modifying the manner in which the department of ecology conducts studies.

Sponsors: Senators Snyder, Deccio, T. Sheldon, Morton, Rasmussen, Honeyford, Hale and Hargrove.

Senate Committee on State & Local Government
House Committee on Agriculture & Ecology

Background: The Department of Ecology (DOE) exercised its statutory authority to conduct a scientific study of the Willapa River, the results of which were disputed by the affected local governments. The local governments were unable to negotiate with DOE and hired a consultant to review the study. Ultimately, DOE agreed to problems with its study.

Summary: The Department of Ecology is required to involve local watershed planning groups, local governments, and affected and concerned citizens when conducting a total maximum daily load study for a water body, and to disclose pertinent study information. Any technical or procedural disagreements that arise during the process may be submitted to the director of the Department of Ecology for review. Disagreement with the director's review may be heard by an administrative law judge whose decision is final and who may order that the study be disregarded and award certain costs to the affected party, including the cost consultants.

Votes on Final Passage:

Senate	35	13
House	71	26 (House amended)
Senate	31	14 (Senate concurred)

Effective: June 13, 2002

Partial Veto Summary: The right of the parties to request a review and a remedy by means of an administrative hearing is vetoed.

Roll Calls on a Bill: 6609 (2001-02)

Brief
Description: Allowing cost recovery in cases involving disputed department of ecology studies. (REVISED FOR PASSED LEGISLATURE: Modifying the manner in which the department of ecology conducts studies.)

2002 Regular Session

Chamber: SENATE
Bill No.: SB 6609
Description: 3RD READING & FINAL
PASSAGE
Item No.: 34
Transcript No.: 36
Date: 02-18-2002

Yeas: 35 Nays: 13 Absent: 01 Excused:
00

Voting yea: Senators Benton, Brown, Carlson, Costa, Finkbeiner, Franklin, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Keiser, Long, McCaslin, McDonald, Morton, Oke, Parlette, Prentice, Rasmussen, Roach, Rossi, Sheahan, Sheldon, T., Snyder, Stevens, Swecker, West, Winsley, Zarelli

Voting nay: Senators Eide, Fairley, Fraser, Kastama, Kline, Kohl-Welles, McAuliffe, Poulsen, Regala, Sheldon, B., Shin, Spanel, Thibaudeau

Absent: Senator Deccio

2002 Regular Session

Chamber: HOUSE
Bill No.: SB 6609
Description: FINAL PASSAGE AS AMENDED BY THE
HOUSE
Item No.: 66
Transcript No.: 51
Date: 03-05-2002

Yeas: 71 Nays: 26 Absent: 00 Excused:
01

Voting Representatives Ahern, Alexander, Anderson, Ballard, Ballasiotes,

yea: Benson, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, Clements, Cox, Crouse, DeBolt, Delvin, Doumit, Dunn, Edwards, Eickmeyer, Ericksen, Esser, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Jackley, Jarrett, Kessler, Kirby, Linville, Lisk, Lovick, Mastin, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Roach, Rockefeller, Ruderman, Santos, Schindler, Schmidt, Schoesler, Schual-Berke, Sehlin, Skinner, Sommers, Sump, Talcott, Van Luven, Woods, and Mr. Speaker

Voting nay: Representatives Barlean, Berkey, Chase, Cody, Conway, Cooper, Darneille, Dickerson, Dunshee, Fisher, Hurst, Kagi, Kenney, Lantz, Lysen, McDermott, McIntire, Murray, Reardon, Romero, Simpson, Sullivan, Tokuda, Upthegrove, Voloria, Wood

Excused: Representative Armstrong

2002 Regular Session

Chamber: SENATE
 Bill No.: SB 6609
 Description: FINAL PASSAGE AS AMENDED BY THE HOUSE
 Item No.: 5
 Transcript No.: 58
 Date: 03-12-2002

Yeas: 31 Nays: 14 Absent: 01 Excused: 03

Voting yea: Senators Benton, Brown, Carlson, Deccio, Finkbeiner, Gardner, Hale, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Johnson, Keiser, Long, McCaslin, McDonald, Morton, Oke, Prentice, Rasmussen, Roach, Rossi, Sheahan, Sheldon, T., Shin, Snyder, Stevens, West, Winsley, Zarelli

Voting nay: Senators Costa, Eide, Fairley, Franklin, Fraser, Jacobsen, Kastama, Kline, Kohl-Welles, McAuliffe, Regala, Sheldon, B., Spanel, Thibaudeau

Absent: Senator Hargrove

Excused: Senators Parlette, Poulsen, Swecker

SENATE BILL 6624

Modifying well construction provisions

PROGRAM / AGENCY IMPACTS

SB 6624 was the result of a two year collaborative effort between Ecology and the well drilling industry to modify drilling fees. The bill has three components. It defines "environmental investigation well" and "remediation well"; establishes a fee structure for environmental investigation wells; and requires fee refund requests to be received by Ecology within 180 days from the time the fees were submitted.

Implementation of SB 6624 will require a revision to the well construction regulations, Chapter 173-160 WAC. The effective date of this bill is June 12, 2002.

RESOURCE IMPACTS

The primary impact on revenue and resources will come from the rule revision. The program intends to use the existing Technical Advisory Group to draft the changes required by SB 6624 and make additional changes and updates as necessary to the remainder of the construction and licensing rules. The costs associated with rule development and implementation will come from the Water Resources Program's budget. These costs are expected to be minimal.

Ecology does not believe that overall well drilling revenues that accrue to the Reclamation Revolving Account will be materially affected by the statutory fee changes for the new categories of wells.

WORK PLAN

Projected Project Schedule

May 2002 - March 2003 - Technical Advisory Group and Ecology review current construction and licensing regulations and develop draft changes.

March - April 2003- File CR 101 (preproposal inquiry) form with the Code Reviser to revise Chapter 173-160 and Chapter 173-162.

April 2003 - August 2003 - Conduct workshops, receive comments, develop final rule language.

August 2003 - September 2003 - File CR 102 (notice of intent to adopt rules).

September - November 2003 - Adopt rule and begin implementation.

No new positions are required.

Contact person: Richard Szymarek – Water Resources Program

Phone: (360) 407-6648; FAX: (360) 407-7162; E-mail: rszy461@ecy.wa.gov

FINAL BILL REPORT

SB 6624

C 48 L 02
Synopsis as Enacted

Brief Description: Modifying well construction provisions.

Sponsors: Senators Keiser, Morton, Fraser and Hale; by request of Department of Ecology.

Senate Committee on Environment, Energy & Water
House Committee on Agriculture & Ecology

Background: Existing law governing construction of wells and payment of fees, Chapter 18.104 RCW, does not fully address current technology and practice for certain types of resource protection wells.

Summary: Environmental investigation wells and remediation wells are added to the definition of resource protection well, and each is also defined separately, based on current well construction technology and practice.

For environmental investigation wells that sample groundwater, up to four wells are covered by the \$40 base fee, with a \$10 fee for each additional well. There is no fee for soil or vapor sampling.

Refund of fees paid for wells that are subsequently not constructed requires submission of a refund request within 180 days to the Department of Ecology on a form provided by the department.

Votes on Final Passage:

Senate	45 0
House	97 0

Effective: June 13, 2002

Roll Calls on a Bill: 6624 (2001-02)

Brief
Description: Modifying well construction provisions.

2002 Regular Session

Chamber: SENATE
Bill No.: SB 6624
Description: 3RD READING & FINAL
PASSAGE
Item No.: 45
Transcript No.: 36
Date: 02-18-2002

Yeas: 45 Nays: 00 Absent: 00 Excused:
04

Voting yea: Senators Benton, Brown, Carlson, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Hewitt, Hochstatter, Honeyford, Horn, Johnson, Kastama, Keiser, Kline, Kohl-Welles, Long, McAuliffe, McDonald, Oke, Parlette, Poulsen, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

Excused: Senators Haugen, Jacobsen, McCaslin, Morton

2002 Regular Session

Chamber: HOUSE
Bill No.: SB 6624
Description: FINAL
PASSAGE
Item No.: 51
Transcript No.: 51
Date: 03-05-2002

Yeas: 97 Nays: 00 Absent: 00 Excused:
01

Voting yea: Representatives Ahern, Alexander, Anderson, Ballard, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway, Cooper, Cox,

Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Lysen, Mastin, McDermott, McIntire, McMorris, Mielke, Miloscia, Mitchell, Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schmidt, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven, Veloria, Wood, Woods, and Mr. Speaker

Excused: Representative Armstrong

ENGROSSED SENATE BILL 6726

Protecting dairy farmers from unwarranted complaints

PROGRAM / AGENCY IMPACTS

This bill expands Section 1 of RCW 90.64.030 (Dairy Nutrient Management Act) with greater detail for responding to and documenting certain complaints for perceived water quality problems.

Ecology will be required to respond within 20 days of a written complaint to both the dairy and complainant with written findings of the complaint investigation. Ecology is given discretion on proceeding with field inspections when there is a recent history (within 6 months) of unfounded complaints.

Regardless of whether a complaint is filed by phone or in writing, if Ecology decides not to make a field inspection the reasons will be documented and sent to both the complainant and dairy within 20 days. All such findings will be placed in the Department's administrative record.

RESOURCE IMPACTS

Overall, the impacts of this bill will be light but it will result in some additional work related to each complaint. Inspectors are currently required to send operators a report of inspection findings within 20 days of the site visit. Inspectors must now make an additional copy of the report and mail it to a complainant if they left their name and address.

Where an individual makes frequent complaints about the same producer, the inspector can reduce the number of inspections if previous inspections (within six months) have not been validated by findings of violations. This occasional reduction in work will be slightly offset by the new requirement to mail documentation of the decision not to investigate to the complainant if they left their name and address.

Our standard procedure for complaints is to complete the paperwork on inspection results through notes in the facility file and our ERTS tracking system. The need to place documentation in the files for both oral as well as written complaints is stressed in the new bill.

There are no new funds connected to the increase in work required.

WORK PLAN

Inspectors have been informed of the new requirement to send copies of inspection reports to the complainant when needed. Their latitude, when there are frequent complaints, to decide if an inspection is needed has been explained. The need to document a decision not to investigate and to inform the complainant has been explained. Finally, the need to complete all paperwork and documentation in the files and ERTS has been emphasized.

The Dairy Inspector Guidance document needs to be updated to reflect these additional requirements.

A follow-up evaluation on how well the new requirements are being followed should be done at periodic intervals over the next six months to ensure that they become standard procedure for each inspector.

Contact person: Nora Jewett – Water Quality Program
Phone: (360) 407-6413; E-mail: njew461@ect.wa.gov

FINAL BILL REPORT

ESB 6726

C 327 L 02
Synopsis as Enacted

Brief Description: Protecting dairy farmers from unwarranted complaints.

Sponsors: Senators Rasmussen and Honeyford.

Senate Committee on Agriculture & International Trade
House Committee on Agriculture & Ecology

Background: In 1993, it became mandatory for the Department of Ecology to investigate complaints filed against dairy farms for alleged violations of water quality laws. Written complaints are to be investigated within three working days and a written report of the department's finding is to be issued.

In 1998, the state enacted the Dairy Nutrient Management Act that provides for the inspection of dairy farms. In addition, dairy farms must develop dairy nutrient management plans. These plans must be approved by the local conservation district by July 1, 2002 unless federal and state funding to support technical assistance is insufficient. A plan must be certified being fully implemented by December 31, 2003.

Oregon has had a system to reduce the number of unwarranted complaints against dairy farms.

Summary: The Department of Ecology may consider past complaints against the same dairy farm from the same person and the results of its previous inspections and has discretion to decide whether to conduct an inspection if a similar complaint was filed during the preceding six months and there was no violation found. If the decision is to not conduct an inspection, the department must document its decision and notify the complainant and the dairy producer. Findings of inspections are to be retained in the department's administrative records.

Votes on Final Passage:

Senate	48 0
House	93 0

Effective: June 13, 2002

Roll Calls on a Bill: 6726 (2001-02)

Brief
Description: Protecting dairy farmers from unwarranted complaints.

2002 Regular Session

Chamber: SENATE
Bill No.: ESB 6726
Description: 3RD READING & FINAL
PASSAGE
Item No.: 53
Transcript No.: 36
Date: 02-18-2002

Yeas: 48 Nays: 00 Absent: 00 Excused:
01

Voting yea: Senators Benton, Brown, Carlson, Costa, Deccio, Eide, Fairley, Finkbeiner, Franklin, Fraser, Gardner, Hale, Hargrove, Haugen, Hewitt, Hochstatter, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, Long, McAuliffe, McDonald, Morton, Oke, Parlette, Poulsen, Prentice, Rasmussen, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Snyder, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

Excused: Senator McCaslin

2002 Regular Session

Chamber: HOUSE
Bill No.: ESB 6726
Description: FINAL
PASSAGE
Item No.: 31
Transcript No.: 53
Date: 03-07-2002

Yeas: 93 Nays: 00 Absent: 00 Excused:
05

Voting yea: Representatives Ahern, Alexander, Anderson, Ballard, Ballasiotes, Barlean, Benson, Berkey, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Casada, Chandler, Chase, Clements, Cody, Conway, Cooper, Cox,

Crouse, Darneille, DeBolt, Delvin, Dickerson, Doumit, Dunn, Dunshee, Edwards, Eickmeyer, Ericksen, Esser, Fisher, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Holmquist, Hunt, Hurst, Jackley, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lisk, Lovick, Mastin, McDermott, McIntire, Mielke, Mitchell, Morell, Morris, Mulliken, Murray, Nixon, O'Brien, Ogden, Orcutt, Pearson, Pflug, Quall, Reardon, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tokuda, Upthegrove, Van Luven, Veloria, Wood, Woods, and Mr. Speaker

Excused: Representatives Armstrong, Lysen, McMorris, Miloscia, Schmidt

